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A HANDY BOOK
ON THE
TAXATION
OF
COMMON LAW COSTS,
ETC. ETC.
BY
EDWARD W. LE RICHE.

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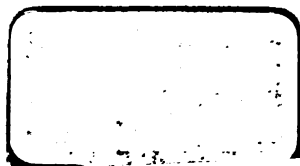
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HANDY BOOK
ON THE
TAXATION
OF
COMMON LAW COSTS,

ETC. ETC.

BY

EDWARD W. LE RICHE.



. . . "Extraordinary expense must be limited by the worth of the occasion."—BACON.

LONDON:
PRINTED AND PUBLISHED BY I. R. TAYLOR,
13, BROWNLOW STREET, BEDFORD ROW.

1859.

ENTERED AT STATIONERS' HALL.

TO THE
HONORABLE SIR S. MARTIN,
KNIGHT,

ONE OF THE BARONS OF HER MAJESTY'S COURT OF EXCHEQUER,

This Little Treatise

IS,

WITH HIS LORDSHIP'S KIND PERMISSION

AND

WITH SENTIMENTS OF THE MOST PROFOUND RESPECT,

DEDICATED BY

THE AUTHOR.

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P R E F A C E.

THE object of this little treatise is to supply to the profession a few practical hints in relation to the taxation of costs, in the hope and belief that it may enable the attorney to discharge a duty which is equally important to his client and himself. This treatise pretends to nothing more.

After many years' experience, I have observed that loss has from time to time been sustained by the client or the attorney, or both, in consequence of taxations being entered upon on imperfect materials, more especially as regards the Affidavit of Increase.

If one of the necessary ingredients of the Affidavit of Increase be omitted, and the objection be insisted upon by the opposing party, the taxation is necessarily postponed—in town cases until the following day, in country cases, at the very earliest until the return of post; and the postponement in the latter instance may be longer extended, by reason of the absence from home of the party who has to make the amended affidavit.

In order to avoid this delay, and to obtain the Master's allocatur at once, it is sometimes found expedient to relinquish the items objected to; but this

may be paying very dearly for a little want of accuracy, which might have been avoided if due regard had been paid in the first instance to the form of the affidavit.

I have known cases in which, in order to ensure the means of issuing a Writ of Execution forthwith, the whole charges for witnesses have been necessarily abandoned, lest, in the event of further delay, the party should lose the fruits of his execution.

The London agents are often instructed that an execution must be sent down by a given day, in order to prevent the operation of the bankruptcy or insolvency laws, or the improper disposal by the judgment debtor of his goods ; consequently any objection to the affidavit, on the ground that it does not duly support particular items in the bill under taxation, must be yielded to, and by this means a loss is occasioned which might have been avoided by ordinary care, and which must fall upon some one. To prevent this I have inserted, in the Appendix to this treatise, a form of Affidavit of Increase, with notes thereon, which I venture to think contains all necessary requisites.

In the Appendix will also be found a form of a bill of costs, from the writ to the judgment.

E. W. L.

1, BEDFORD ROW,
March, 1859.

HANDY BOOK

ON THE

TAXATION OF COMMON LAW COSTS.

It is unnecessary to make any further remarks as to the necessity of correct materials upon which to proceed to taxation, for all London practitioners, and especially London agents for country attornies, must have long experienced the truth of the statements made in the Preface, and I will now proceed to make a few general remarks.

I have inserted in the Appendix the rules and provisions relating to costs and their taxation, which will be found more convenient for reference when placed together than when scattered throughout the rules and Acts of Parliament having reference to the subject.

Notice of Taxation, &c.—When the witnesses have been paid and judgment has been signed, the next thing to be done is to prepare the bill of costs and affidavit of increase.

A copy of the bill of costs must be delivered with a notice of taxation to the opposite party, at the latest, on the day previous—see Rule 59 of Reg. Gen. Hilary Term, 1853, which directs as follows :—

“ One day’s notice of taxing costs, together with a copy of the bill of costs and affidavit of increase (if any), should be given by the attorney of the party

whose costs are to be taxed to the other party or his attorney, in all cases when a notice to tax is necessary."

When Notice Necessary.—A notice of taxation is always necessary when the defendant has appeared, or has done any act which may be considered equivalent or tantamount to an appearance—such as taking the declaration out of the office, or serving a summons for time to plead, or a summons to stay.

The notice of taxation, one day for the next, must be served before 7 p.m. on the previous day, or if for any Monday, before 2 p.m. on the previous Saturday.

Affidavit of Increase.—When by reason of the form of the affidavit being defective, or in cases where an affidavit of increase is unexpectedly needed, the Master will often, upon being requested so to do, adjourn the taxation to a specified future day; in which case the necessity for giving a fresh notice of taxation, with a copy of the affidavit, will be avoided, and, in country cases, a day may thereby be saved. *Ex. gr.*—If the appointment be attended before the Master on the first day of the month, and an affidavit should be found requisite, the return of post would be the third, and as the affidavit could not be received before the third, the taxation (unless the Master should have adjourned the appointment to that day), could not be again proceeded with before the fourth—consequently a day would be lost.

Costs of Special Jury.—It often happens that actions are settled by a judge's order a few days before the sitting day in London, or Middlesex, or commission day in assize cases; when that is the case, the plaintiff's attorney should take care, if the case is one which would have been tried by a special jury, to pro-

vide for the costs of and relating to the rule or order for a special jury, and the expenses consequent thereon; for if the order to stay should not contain such a provision, the Master has no power to allow those expenses—the costs of a special jury not being allowable, except when the presiding judge certifies on the trial of the cause that it is fit to be tried by a special jury.

As between Attorney and Client.—When, as part of the terms of the settlement of the action, it is agreed that the plaintiff's costs should not be the usual costs between party and party, but should be taxed as between attorney and client, it should (if so intended) be stipulated that the costs to be allowed shall be *such costs as the client would have to pay to his own attorney*. If such a stipulation be not made, the costs as between attorney and client, although more than allowed between party and party, will not be the same as those allowed to an attorney against his own client.

Bond for Security for Costs.—In the Appendix I have given the form of the bond for security for costs, which, as drawn, will, I believe, meet all possible contingencies. The proper course, where security is ordered, is for the party obtaining the order to procure from the Master an appointment to fix the amount for which security is to be given, which is served upon the plaintiff's attorney or agent. Upon attending the appointment, the Master goes into the circumstances of the case, and hears the statements of the parties before him, and if the parties differ, or the defendant's attorney should ask for security to an unreasonable amount, the Master will call for an affidavit in support of the sum asked, and allow the plaintiff to make an

affidavit in reply, and in the result will exercise his discretion on the subject.

The party directed to give the security may, if he wish, pay the amount fixed by the Master into court in lieu of giving the bond. The bond is settled by the Master in case the parties differ as to its form, and if the proposed sureties should be objected to, the plaintiff will be compelled to justify, using as nearly as may be the form of the affidavits of justification in bail cases.

When the bond is executed by the parties, it is in the Queen's Bench filed with the Master, and in Common Pleas and Exchequer it is handed over to the defendant's attorney. The stamp is 2s. 6d. for each £100.

Telegraphic Messages.—These are now more freely allowed, if a saving of expense is gained by them.

Two Lists of Causes.—In all cases at the assizes where there are two lists, the affidavit of increase must state in which list the cause was entered, and if the cause was entered in the second list, it must also state when such second list was fixed to commence; and it would be as well to state when it actually did commence, as questions might arise upon the point.

There are two lists in Lancashire and Yorkshire. It is expected that there will be two lists in Warwickshire. In the Appendix is a copy of the rule made at Liverpool with respect to the assizes there.

When Affidavit Unnecessary.—I may observe that when the expenses claimed for the witnesses' attendance at the trial do not, with the subpoena and services of the same, exceed forty shillings, the Master will allow that sum without an affidavit of increase, and no affidavit in such case ought to be made.

Cross Issues.—The affidavit of increase given in the Appendix is only applicable to ordinary cases, and not to actions where there are cross issues. Where there are some issues found for the plaintiff and others for the defendant, the affidavit of increase of the party having the costs of the cause need only state that his witnesses were material and necessary witnesses in the cause on his behalf on the issues found for him, but the affidavit of increase of the party *not having the costs of the cause* must state that his witnesses were material and necessary upon the issues found for him, and *were not witnesses upon the issues* found for the party having the costs of the cause; in other words, the witnesses for the party having the costs of the cause may be mixed witnesses, that is, witnesses upon any of the issues found for the opposite party, provided that they are material and necessary witnesses upon the issues on which the successful party obtains the verdict; but the party not having the costs of the cause must state that his witnesses were material and necessary, exclusively upon the issues found for him, and not mixed witnesses; hence the struggle on the part of the party having the costs of the cause is to show that the witnesses for the losing party were mixed witnesses, and a very slight piece of evidence often destroys the claim of that party to the costs of the witnesses upon the particular issues found for him.

The form of the affidavit to be made by the successful party, in cases of cross issues, so far as regards this point should be as follows:—"And I further say that all the said above-mentioned persons were material and necessary witnesses for the plaintiff (or

defendant, as the case may be), upon the trial of this cause upon the issues found for him."

And the form of the affidavit for the losing party, having only certain issues found for him, should be as follows:—"And I further say that all the said several witnesses were material and necessary for the defendant (or plaintiff, as the case may be), upon the issues found for him, and were not witnesses upon the issues found for the plaintiff" (or defendant, as the case may be).

Professional Witnesses.—It often occurs that attorneys, or their clerks, are subpoenaed upon trials at the assizes, in cases on which they are not professionally concerned. In such cases, the affidavit of increase should state with respect to such witnesses that they had not any other business at the said assizes, and the following clause will be sufficient:—"And I further say that the said A. B. and C. D. were not witnesses in any other cause, nor had they, to my knowledge or belief, any other business at the said assizes."

Demurrers after Issues in Fact disposed of.—It not unfrequently happens that after a trial had there still remain on the record demurrers to be disposed of, and as there can only be one taxation in the cause, such demurrers must be got rid of before the costs can be taxed and the party reap the benefit of his verdict. In such cases, if the party who succeeds do not wish to have the demurrers argued, or is anxious to avail himself of the benefit of his verdict, he should serve a summons to withdraw or strike out the demurrers, and the judge will make an order giving him leave to do so on payment of the costs occasioned by the demurrer.

Payment into Court.—Formerly when money was

paid into court, and the plaintiff refused to accept it, and replied damages ultra, and went to trial and failed in recovering more than had been paid into court, he lost *all the costs* of the action: this was thought to be unjust, and accordingly the 12th Rule of Hilary Term, 1853, was issued, and by that rule if the plea of payment of money into court be pleaded as to part of the money sought to be recovered, the plaintiff will be entitled to his costs to the time of the the money being paid in, whatever may be the result of the cause in respect of any other pleas on the record; but if the plaintiff goes on for more, and the defendant gets the verdict, the defendant will be entitled to his costs, commencing with "Instructions for Pleas." And it has been recently held by Baron Bramwell, sitting at Chambers, in a case where money had been paid into court, and the cause had gone to trial and a juror had been withdrawn, that the plaintiff was still entitled, under the above rule, to his costs up to the time of the payment of money into court.

But if the defendant, under Section 73 of the Common Law Procedure Act, 1852, pay money into court generally, to the whole declaration, and the plaintiff reply that the sum paid into court is not enough to satisfy his claim, and goes on to trial, and the defendant gets the verdict, the defendant is entitled to all the costs of the cause from the commencement of the suit.*

Incidentally, it may be here mentioned, that since the provision in the last County Court Act (19th and 20th Vic., cap. 108), as to judgments by default, the

* See also page 23.

only cases NOT within the operation of the County Courts Acts as to costs, are where the debt is reduced by set-off to £20 or under, and where money is paid into court. It has been decided that the money recovered by those means is not a recovery within the County Courts Acts, and consequently the plaintiff is entitled to recover his costs.

In cases to which the lower scale of costs is applicable.—If the action be brought to recover an amount above £20, and the defendant pays into court £20, or a less amount, and the plaintiff accepts the sum paid in in full satisfaction of his claim, the plaintiff's costs are taxed on the lower scale, and any costs to which, upon the pleadings the defendant may be entitled, will be taxed upon the higher scale.

Particulars of Demand and Set-off.—It may be well to remind the country practitioner that he should always place his agent in a position to deliver particulars of demand with the declaration, or particulars of the set-off with the plea of set-off, as the case may be; for if an order be subsequently made for such particulars, he will lose the costs not only of the particulars delivered, but also the costs of and occasioned by the order obtained. See Rule 19, Hilary Term, 1853.

It is observable, also, that particulars of the plaintiff's demand are often sought in order to effect a stay of the proceedings, and consequently the agent for the plaintiff should stipulate that there should be no stay of proceedings if the particulars be delivered within a given time, as this often has the effect of putting the defendant under terms of accepting short notice of trial.

Filing Judge's Order.—It is provided by Rule 28, Hilary Term, 1853, that the costs of filing a judge's order for judgment against a trader defendant under the Bankruptcy Act, shall not be allowed *unless specially ordered by the judge*; but this rule is now inoperative, as the judges have resolved not to direct the costs of registering the order to be paid, and such costs cannot be allowed unless expressly mentioned in the order; consequently, when time is granted for payment of debt and costs, care should be taken to provide for registering the order at the costs of the defendant.

Notices to Admit, &c.—The country practitioner should take care to instruct his agent to serve the necessary notice to admit, as the costs of proving any document in respect of which such notice has not been given, will not be allowed on taxation, unless the Master should be of opinion that the omission is a saving of expense, which is seldom the case.

The party neglecting or refusing to admit, is liable to the costs of proof, whatever may be the result of the cause, unless the judge should certify *that the refusal was* reasonable. See Rule 30, H. T., 1853, C. L. P. A., 1852, Section 117.

Formerly notices to admit could not, except by leave of the judge, be served before plea pleaded, but there is not now any such restriction, though the Masters exercise a discretion as to the allowance of the costs of such notices, when given at too early a stage of the cause, and when they ultimately turn out to be useless and unnecessary. Except under particular circumstances it would, I think, be deemed premature to give the notices before plea.

New Trial.—If a rule for a new trial be silent as to costs, the costs of the first trial are not allowed to the successful party, though he should succeed on the second (see Rule 54, H. T., 1853), but when the costs of the first trial are directed to abide the event of the second, if the party obtaining the verdict at the first trial should also succeed at the second, he will be entitled to the costs of both trials; but if the party who lost the verdict on the first trial should obtain the verdict on the second, he will be entitled to the costs of the second trial only. The event of the two trials must be the same to entitle a party to the costs of both trials.

Briefs, Affidavit of Increase, &c.—It often happens that a cause is settled shortly before the sitting or commission day, in which case the Master on the taxation of costs will, on the application of the opposite party, if he see fit to do so under the circumstances, require an affidavit showing when the brief and copies, and copies of documents accompanying the brief, were prepared and copied.

The affidavit on this point may be as follows:—

“And I further say that the brief in this cause, consisting of sheets of paper, was drawn, and two copies thereof were made before the day of (or the day the terms of settlement were agreed upon), or the order made.”

“And I further say that the following copies of documents, consisting of sheets of paper, accompanied the brief, namely (here describe them as follows). Copy deed of settlement, dated, &c., were also all duly copied before the said day of .”

If the action arise out of, or is connected with a

Chancery suit, copies of documents in Chancery will not be allowed unless it can be sworn that the copies were made expressly for the common law action, and that copies had not been made for the Chancery proceedings, or, if made, that they could not, from their defaced condition, or for other reasons to be made out to the Master's satisfaction, be used in the common law action.

Ejectment.—Upon the defendant's non-appearance at the trial, the plaintiff is entitled to judgment and costs of suit. (See Rule 114, H. T., 1853.) This places the ejectment action in the same position as personal actions.

The defendant, in ejectment, is entitled to his costs if the plaintiff be nonsuited. (See Rule 29 of Pleading Rules, H. T., 1853.) This rule appears to have been made to supply the omission in Section 183 of C. L. P. A., 1852, as to defendant's costs upon plaintiff being nonsuited.

Removal from Inferior Courts.—The costs in the court below are now costs in cause. (See Rule 117, H. T., 1853.) The rule applies only to common law actions, and not to indictments removed into the superior courts, consequently, costs in the latter case, when taxed by the Master of the Crown Office, only begin with the case after its removal.

Appointment to Tax.—Rules 154 and 172.—By the first of these rules, the party serving the notice or appointment to tax, is only bound to attend at the Master's office for half an hour after the time appointed; and by the second, if the party on whom the appointment has been served do not attend within that time, the Master may proceed *ex parte*, though it not un-

frequently happens that he recommends another appointment to be served, marking such appointment peremptory.

Making Judge's Order a Rule of Court.—Rule 159.—To obtain the costs of making a judge's order a rule of court, a copy of the order must be served upon the opposite party, his attorney, or agent, and an affidavit made of such service. If the order be an order for payment of money or costs, a demand of payment should be made on the party directed by the order to pay the money, and the demand and refusal stated in the affidavit. By the previous Rule 158, where a judge's order is made during vacation, it cannot be made a rule of court before the next term.

Attachment.—A rule for attachment for nonpayment of costs is absolute in the first instance. (See Rule 168, H. T., 1853.)

Award.—Costs on an award may be taxed before the time to set it aside has expired. (See Rule 170.) This of course may save time in some instances, but if time be not an object, it is better to defer the taxation of costs until the time for a motion to set it aside has gone by, for the court may, upon such a motion, hold that the award is bad or good, only *pro tanto*, or the case may be referred back to the arbitrator, and a different finding arrived at by him, and consequently the whole principle of the taxation might be changed.

Subsequent Defences.—(See Pleading, Rules 22 and 23.)—These are very important rules, and the practitioner must, in the event of there being several defendants, endeavour, upon the hearing of the summons taken out by one of them, to plead several matters (when by such pleas defences are set up both before and after the commencement of the action) to induce

the judge to refuse the application, unless the co-defendants, who do not seek to plead the double pleas, will consent to the plaintiff having the option of confessing the plea of defence arising after action brought, and thus put an end to the action, taking the benefit of the rule as to costs. If the plaintiff should not confess the plea of subsequent defence, but should reply he will not be able to place himself in his former position, except by obtaining an order to be at liberty to withdraw his replication, and reply *de novo* admitting the plea, in which case the intermediate costs between pleading such plea and the amendment by the plaintiff will have to be paid to the defendant or deducted from the plaintiff's costs.

Error Proceedings.—Rule 25.—The costs of error now being costs in the cause, the successful party is entitled to the costs of the proceedings in the court below, as well as in the court above, when the judgment of the court below is affirmed without any special application to the Court of Error, and one bill of costs is only made out for taxation; but when the Court of Error reverses the judgment of the court below, neither party is entitled to costs in the Court of Error.

Interest.—By pleading Rule 26 the court may allow interest, in consequence of the execution being delayed, and the Master may compute such interest without any rule of court or order of a judge.

In no case, by Rule 27, can error be brought on any judgment in respect of costs.

Formâ Pauperis.—A plaintiff suing in *formâ pauperis* is not entitled *at law* to his costs, unless the court or a judge should so order.

Reference.—It not unfrequently happens that by

awards costs are directed to be paid by the parties in moieties, thirds, fifths, or otherwise. They are so payable when the arbitrator by his award directs payment of costs in the following words, or to the like effect:—"I direct that the costs of the reference shall be paid by the plaintiff and defendant in moieties." In such cases the Masters tax the costs of both parties, and the costs on both sides are then added together and divided in halves, and each party has to pay half, taking credit for the amount each has borne. *Ex. gr.*—

| | |
|--------------------------------------|----------|
| Plaintiff's costs, say | £200 |
| Defendant | 50 |
| | <hr/> |
| | ½ £250 |
| Each to pay | £125 |
| The plaintiff has already paid . . . | £200 |
| He has to bear | 125 |
| | <hr/> |
| He has to receive | £75 |
| The defendant has to bear | £125 |
| He has paid already | 50 |
| | <hr/> |
| He has still to pay | £75 |

I believe that this mode of directing payment of costs is frequently attended with injustice; it often is so when the costs of the one party are more than the costs of the other, as it may often be doubtful whether the arbitrator, although he does not so express it, means anything more than that each party shall pay his own costs. Where this is really the arbitrator's intention, the form of the award should be:—"And I direct that each party shall pay his own costs of the reference." When the costs are directed to be paid in thirds—for

example, when the plaintiff has to bear one-third and the defendant two thirds—then the following figures will show the mode of arriving at the respective shares :—

| | | | |
|--|------|----|-----|
| Plaintiff's costs, say | £200 | | |
| Defendant ditto | 50 | | |
| | | 3 | 250 |
| Plaintiff is to bear one-third | 83 | 6 | 8 |
| Defendant two-thirds | 166 | 13 | 4 |
| | £250 | 0 | 0 |
| Plaintiff has paid already | 200 | 0 | 0 |
| He is to bear (deduct) | 83 | 6 | 8 |
| To receive from defendant | £116 | 13 | 4 |
| Defendant to bear | 166 | 13 | 4 |
| He has paid already | 50 | 0 | 0 |
| Has to pay | £116 | 13 | 4 |

It will be observed that the scale of costs issued by the judges contains no directions as to fees of counsel and arbitrators on references, but the scale of allowance in this respect, usually acted upon by the Masters, will be found in the Appendix.

The Masters do not rigidly tie themselves to this scale, but exercise a discretion in exceptional cases.

There are doubtless many other matters in which the Master of necessity exercises a discretion, thus illustrating or exemplifying my motto. No outline can embrace every feature.

Payment of Money into Court.—Where a Plaintiff is nonsuited after payment of money into court, the

plaintiff loses all his costs, and the defendant is entitled to his from the commencement of the action.

Summons to Stay Proceedings.—See the case of “Walton v. Brown,” 28 L. J. Ex., 38, where it is decided that the court or a judge may moderate the rule of practice depriving the plaintiff of costs, and giving the defendant his costs from the time when the amount was tendered upon a summons to stay and refused, but subsequently accepted by the plaintiff.

County Court.—It has been decided that when the action is referred for trial under section 3 of the Common Law Procedure Act, 1854, the scale applicable to the taxation of costs in such cases is the scale applicable to proceedings in the superior courts. See “Edwards v. Edwards,” 28 L. J., C. P. 25.

In the above case the decision of “Wheatcroft v. Foster,” 27 L. J., Q. B. 277, was commented on, which case was referred to the County Court judge, under section 26 of 19 and 20 Vict., c. 108, in which it was held that the Master might, so far as the proceedings were had in the County Court, follow the scale of costs in that court.

It would have been more satisfactory to the profession if it had been held in the latter case as in the former, viz., that the taxation in such cases should be according to the scale in use in the superior courts, inasmuch as the award under the Common Law Procedure Act, 1854, and the certificate under the County Court Act have to be enforced in the superior court.

Reviewing Taxation.—In the former part of this work the necessity of keeping the agent in town informed as to various matters, has been enforced, and it may be as well to remind the country attorney

that he should, immediately the action in which he is concerned has been tried, and where the verdict has passed against his client, inform his agent of any fact that may be useful upon the taxation of the opposite party's costs, as the agent might not be able to procure an adjournment of the appointment in order to receive instructions upon the bill, and he may only have received the bill, &c., with an appointment one day for the next.

This is material, for it not unfrequently happens that a witness is not in attendance on the day of the trial, or is rejected by the presiding judge ; in either of which cases, if the objection be taken, no allowance can be made for such a witness, and the costs of subpoenaing such witnesses, the payments made to them, and the portions of the brief applicable to their evidence, will be disallowed ; and it is a rule that no review will be granted when the facts were within the knowledge of the attorney for the losing party at the time of the taxation ; also, unless the objections relied on upon the application to review were taken upon the taxation.

We may also mention that a review will not be granted when the amount improperly allowed is less than forty shillings.

Amendments of Pleadings.—It may become necessary during the progress of actions to amend the pleadings, in which case the plaintiff must take care not to permit the amendment to throw him over the sittings or the assizes (as the case may be) for which notice of trial may have been given. He should stipulate that the notice of trial already given do stand, and that the payment of costs be not made a condition

precedent, for if the order be made "upon payment of costs to be taxed," the amendment, although communicated to the defendant, is not considered as made until the costs are actually paid; and the costs cannot be paid till ascertained by the Master. The order should, in lieu of "upon payment," be made absolute; directing that the plaintiff do pay the costs, or upon the plaintiff or his attorney undertaking to pay the costs of and occasioned by the amendment, or, what is much better, that the costs of the amendment be the defendant's costs; in any event, then, the defendant would be entitled at the end of the cause to deduct his costs from the costs of the plaintiff; or if the defendant should succeed in the action he would be entitled to charge the costs of amendment in his bill of the costs in the cause.

If the defendant has to apply to amend, a like provision as to the costs should be made.

The judges appear to favour the above practice by making the costs of amendments, and other interlocutory matters, the costs of the party to receive the costs at the termination of the action. This prevents delay in the progress of the action, and is also a saving of expense.

Costs before Action.—Upon the settlement of actions, parties often think if they stipulate that the costs shall be taxed as between attorney and client, that such stipulation will include costs anterior to the action, but as the Master has no authority to allow any such costs, except the order provides in its terms for such costs, the party who has to receive the costs must take care to provide for all costs as between attorney and client, both *before* and *since* the action.

Costs of Trial.—The attention of the profession is called to section 145 of Common Law Procedure Act, 1852, and which is as follows:—"Upon an arrest of judgment, or judgment *non obstante veredicto*, the court shall adjudge to the party against whom such judgment is given the costs occasioned by the trial of any issues of fact arising out of the pleading for defect, of which such judgment is given upon which such party shall have succeeded, and such costs shall be set off against any money or costs adjudged to the opposite party, and execution may issue for the balance, if any."

By this section, if a party shall succeed upon the trial of any immaterial issues in fact, and a rule is subsequently granted arresting the judgment thereupon, or entering a judgment *non obstante veredicto*, the costs of trying such issues in fact are now deducted from the costs of the party succeeding in the cause. This renders it very essential to consider well before trying immaterial issues.

Formerly in cases where the judgment was arrested, each party paid his own costs, and where the judgment *non obstante veredicto* was directed, neither party was entitled to the costs of the immaterial issues.

This new enactment is a very salutary and by no means a harsh one, inasmuch as the point urged upon the application to arrest the judgment, or to enter a judgment *non obstante veredicto*, might be raised upon demurrer.

It will be observed that the parties entitled to the costs of the trial may have execution for the balance.

Costs of Appeals under Common Law Procedure Act, 1854.—It has been decided that when the judg-

ment below is affirmed, costs will be given to the successful party; but no costs will be given to either party when the judgment below is reversed. (See "*Windle v. Barker*," 25, Law Journal, B. R., 350.)

Costs of Appeal in Criminal Cases.—In the court for the consideration of cases reserved under 11th and 12th Vict. c. 78, when the conviction is affirmed the costs of the appeal are allowed to the prosecutor, though it may be regretted that the allowance is so very meagre. The costs, as actually allowed by the clerk of the court, are set out in the Appendix.

The office of the clerk of the court is at the Central Criminal Court, Old Bailey.

APPENDIX.

PLEADING RULES.

Hilary Term, 1853.

RULE 2. Several pleas, replications, or subsequent pleadings, or several avowries or cognizances, founded on the same ground of answer or defence, shall not be allowed ; provided that on application to the court, or a judge, to strike out any count, or on an objection taken before the judge on a summons, to plead several matters to the allowance of several pleas, replications, or subsequent pleadings, avowries, or cognizances, on the ground of such counts, or other pleadings, being in violation of this rule, the court or the judge may allow such counts on the same cause of action, or such pleas, replications, or subsequent pleadings, or such avowries or cognizances, founded on the same ground of answer or defence, as may appear to such court or judge to be proper for the determining the real question in controversy between the parties on its merits, subject to such terms, as to cost and otherwise, as the court or judge may think fit.

RULE 3. When no such rule or order has been made as to costs by the court or judge, and on the trial there is more than one count, plea, replication, or subsequent pleading, avowry or cognizances, on the record, founded on the same cause of action or ground of answer or defence, and the judge or presiding officer before whom the cause is tried shall, at the trial, certify to that effect on the record, the party so pleading shall be liable to the opposite party for all costs occasioned by such count, plea, or other pleading, in respect of which he has failed to establish a distinct cause of action, or distinct ground of answer or defence, including those of the evidence as well as those of the pleadings.

RULE 18. In actions for trespass to land, the close or place in which, &c., must be designated in the declaration by name, or abuttals, or other description, in failure whereof the plaintiff may be ordered to amend, with costs, or give such particulars as the court or judge may think reasonable.

RULE 22. A plea containing a defence arising after the commencement of the action, may be pleaded, together with the pleas of defences arising before the commencement of the action ; provided that the plaintiff may confess such plea, and thereupon shall be entitled to the costs of the cause up to the time of the pleading of such first-mentioned plea.

RULE 23. When a plea is pleaded in allegation that the matter of defence arose after the last pleading, the plaintiff shall be at liberty to confess such plea, and shall be entitled to the costs of the cause up to the time of pleading such plea ; provided that this and the preceding rule shall not apply to the case of such plea pleaded by one or more only of the several defendants.

RULE 25. The costs of proceeding in error shall be taxed and allowed as costs in the cause, and no double costs in error shall be allowed to either party.

RULE 26. On error from one of the superior courts, such court shall have power to allow interest for such time as execution has been delayed by the proceedings in error, for the delay thereof ; and the Master, on taxing the costs, may compute such interest without any rule of court or order of a judge for that purpose.

RULE 27. In no case shall error be brought for any error in a judgment with respect to costs ; but the error (if any) in that respect may be amended by the court in which such judgment may have been given, on the application of either party.

RULE 28. A person admitted to sue *in formâ pauperis* shall not in any case be entitled to costs from the opposite party, unless by order of the court or a judge.

RULE 29. If a plaintiff in ejectment be nonsuited at the trial, the defendant shall be entitled to judgment for his costs of suit.

RULE 30. If the plaintiff in ejectment appear at the trial, and the defendant does not appear, the plaintiff shall be entitled to a verdict without producing any evidence, and shall have judgment for his costs of suit, as in other cases.

**COMMON LAW PROCEDURE ACT,
1852.**

8. Upon the writ, and copy of any writ, served for the payment of any debt, the amount of the debt shall be stated, and the amount of what the plaintiff's attorney claims for the costs of such writ, copy, and service, and attendance to receive debt and costs; and it shall be further stated, that upon payment thereof within four days to the plaintiff or his attorney, further proceedings will be stayed, which indorsement shall be written or printed in the following form, or to the like effect:—"The plaintiff claims £ for debt, and £ for costs, and if the amount thereof be paid to the plaintiff or to his attorney within four days from the service hereof, further proceedings will be stayed." But the defendant shall be at liberty, notwithstanding such payment, to have the costs taxed, and if more than one-sixth shall be disallowed, the plaintiff's attorney shall pay the costs of taxation.

21. If either of the forms of writ or summons contained in the schedule (A) to the said Act annexed, and marked respectively Nos. 1, 2, and 3, shall, by mistake or inadvertence, be substituted for any other of them, such mistake or inadvertence shall not be an objection to the writ or any other proceeding in such action; but the writ may, upon an *ex parte* application to a judge, whether before or after any application to set aside such writ or any proceeding thereon, and whether the same or notice thereof shall have been served or not, be amended by such judge without costs.

73. The plaintiff, after the delivery of a plea of payment of money into court, shall be at liberty to reply to the same by accepting the sum so paid into court, in full satisfaction and discharge of the cause of action, in respect of which it has been paid in ; and he shall be at liberty, in that case, to tax his costs of suit, and in case of nonpayment thereof within forty-eight hours, to sign judgment for his costs of suit so taxed ; or the plaintiff may reply that the sum paid into court is not enough to satisfy the claim of the plaintiff in respect of the matter to which the plea is pleaded ; and, in the event of an issue thereon being found for the defendant, the defendant shall be entitled to judgment and his costs of suit.

117. Either party may call on the other party, by notice, to admit any document, saving all just exceptions ; and in case of refusal, or neglect to admit, the costs of proving the document shall be paid by the party so neglecting or refusing, whatever the result of the cause may be, unless at the trial the judge shall certify that the refusal to admit was reasonable ; and no costs of proving any document shall be allowed unless such notice be given, except in cases where the omission to give the notice is, in the opinion of the Master, a saving of expense.

145. Upon an arrest of judgment, or judgment *non obstante veredicto*, the court shall adjudge to the party against whom such judgment is given the costs occasioned by the trial of any issues of fact arising out of the pleading, for defect of which such judgment is given, upon which such party shall have succeeded ; and such costs shall be set off against any money or costs adjudged to the opposite party, and execution may issue for the balance, if any.

159. The plaintiff in error, whether in fact or law, shall be at liberty to discontinue his proceedings by giving to the defendant in error a notice, headed in the court or cause, and signed by the plaintiff in error, or his attorney, stating that he discontinues such proceedings ; and thereupon the defendant in error may sign judgment for the cost of, and occasioned by, the proceedings in error, and

may proceed upon the judgment on which the error was brought.

200. The claimant in ejectment shall be at liberty at any time to discontinue the action as to one or more of the defendants, by giving the defendant or his attorney a notice, headed in the court and cause, and signed by the claimant or his attorney, stating that he discontinues such action; and thereupon the defendant, to whom such notice is given, shall be entitled to, and may forthwith sign, judgment for costs in the form contained in schedule (A) to the said Act annexed, marked No. 18, or to the like effect.

GENERAL PRACTICE RULES.

Hilary Term, 1853.

1ST.—WRIT OF SUMMONS.

When a writ of summons is indorsed in the special form mentioned in the section 27 of the Common Law Procedure Act, 1852, the following are the amounts which may be indorsed by the plaintiff's attorney or agent upon the writ for costs, and to include mileage:—

In actions above £20.

| | |
|---|--------|
| In town causes | £3 8 0 |
| In country, or agency cases (including mileage) | 4 0 0 |

In actions under £20.

| | |
|---|---------|
| In town causes | £2 14 0 |
| In country, or agency cases (including mileage) | 3 2 0 |

Where the plaintiff's attorney, at the time of issuing the writ, claims more than the sums fixed as above, the indorsement on the writ of summons in respect of costs shall be as follows:—"Such sum as shall be allowed on taxation for costs." And in case the plaintiff shall be found not entitled to more costs than such fixed sums, or if more than one-sixth shall be disallowed, the plaintiff's attorney shall pay the costs of taxation. So, if the

attorney has indorsed on the writ one of the fixed sums for the cost of judgment, and claims more costs on signing judgment, and on taxation shall be found not entitled to more costs on signing judgment, and on taxation shall be found not entitled to more than such sum, or if more than one-sixth be taken off on taxation, the plaintiff's attorney shall in like manner pay the costs of taxation.

PAYMENT OF MONEY INTO COURT.

12. When money is paid into court in respect of any particular sum or cause of action in the declaration, and the plaintiff accepts the same in satisfaction, the plaintiff, when the costs of the cause are taxed, shall be entitled to the costs of the cause in respect of that part of his claim so satisfied, up to the time the money is so paid in and taken out, whatever may be the result of any issue or issues in respect of other causes of action; and if the defendant succeeds in defeating the residue of the claim, he will be entitled to the costs of the cause in respect of such defence, commencing at "Instructions for Plea," but not before.

13. Where money is paid into court in several actions which are consolidated, and the plaintiff, without taxing costs, proceeds to trial on one, and fails, he shall be entitled to costs on the others up to the time of paying money into court.

PARTICULARS OF DEMAND OR SET-OFF.

19. With every declaration (unless the writ has been specially indorsed under the provisions contained in the 25th section of the Common Law Procedure Act, 1852) delivered or filed, containing causes of action such as those set forth in Schedule B of that Act, and numbered from 1 to 14 inclusive, or of a like nature, the plaintiff shall deliver or file full particulars of his demand under such claim, where such particulars can be comprised within three folios; and where the same cannot be comprised within three folios, he shall deliver or file such a statement of the nature of his claim, and the amount of the sum or balance which he claims to be due, as may be comprised within that number of folios; and with every

plea of set-off, containing claims of a similar nature as those in respect of which a plaintiff is required to deliver or file particulars, the defendant shall, in like manner, deliver particulars of his set-off. And to secure the delivery or filing of particulars in all such cases, it is ordered, that if any such declaration shall be delivered or filed, or any plea of set-off delivered, without such particulars or such statement as aforesaid, and the judge shall afterwards order a delivery of particulars, the plaintiff or defendant, as the case may be, shall not be allowed any costs in respect of any summons for the purpose of obtaining such order, or of the particulars he may afterwards deliver, and a copy of the particulars of the demand and set-off shall be annexed by the plaintiff's attorney to every record, at the time it is entered with the proper officer.

INSPECTION OF DOCUMENTS.

30. In all cases of trials, writs of inquiry, or inquiries of any kind, either party may call on the other party, by notice, to admit documents in the manner provided by, and subject to, the provisions of the Common Law Procedure Act, 1852, and in case of the refusal or neglect to admit after such notice given, the costs of proving the document shall be paid by the party so neglecting or refusing, whatever the result of the cause may be, unless, at the trial or inquiry, the judge or presiding officer shall certify that the refusal to admit was reasonable; and no costs of proving any document shall be allowed unless such notice be given, except in cases where the omission to give the notice is, in the opinion of the master, a saving of expense.

TRIAL, NOTICE OF TRIAL, AND INQUIRY.

39. The costs of the day for not proceeding to trial, or to execute a writ of inquiry, may be obtained by a side bar rule on the usual affidavits.

54. If a new trial be granted without any mention of costs in the rule, the costs of the first trial shall not be allowed to the successful party, though he succeed on the second.

COSTS, SETTING-OFF DAMAGES, OR COSTS.

59. One day's notice of taxing costs, together with a copy of the bill of costs, and affidavit of increase (if any), shall be given by the attorney of the party whose costs are to be taxed, to the other party or his attorney, in all cases where a notice to tax is necessary.

60. One appointment only shall be deemed necessary for proceeding in the taxation of costs, or of an attorney's bill.

61. Notice of taxing costs shall not be necessary in any case where the defendant has not appeared in person, or by his attorney, or guardian.

62. Where issues in law and fact are raised, the costs of the several issues, both in law and fact, will follow the finding or judgment; and if the party entitled to the general costs of the cause, obtain a verdict on any material issue, he will also be entitled to the general costs of the trial; but if no material issue in fact be found for the party otherwise entitled to the general costs of the cause, the costs of the trial shall be allowed to the opposite party.

63. No set-off of damages or costs between parties shall be allowed to the prejudice of the attorney's lien for costs in the particular suit against which the set-off is sought; provided, nevertheless, that interlocutory costs in the same suit, awarded to the adverse party, may be deducted.

EJECTMENT.

114. If the plaintiff in ejectment appears at the trial, and the defendant does not appear, the defendant shall be taken to have admitted the plaintiff's title, and the verdict shall be entered for the plaintiff without producing any evidence, and the plaintiff shall have judgment for his costs of suit, as in other cases.

CAUSES REMOVED FROM INFERIOR COURTS.

117. If a cause is removed from an inferior court having jurisdiction of the cause, the costs of the court below shall be costs in the cause.

IRREGULARITY.

137. In all cases where a rule is obtained to show cause why proceedings should not be set aside for irregularity with costs, and such rule is afterwards discharged generally, without any special direction upon the matter of costs, it is to be understood as discharged with costs.

RULES, SUMMONS, AND ORDERS.

154. An attendance on a summons, or on an appointment, before a Master, for half-an-hour next immediately following the return thereof, shall be deemed a sufficient attendance.

159. When a judge's order, or order of *Nisi Prius*, is made a rule of court, it shall be a part of the rule that the costs of making the order a rule of court shall be paid by the party against whom the order is made; provided an affidavit be made and filed that the order has been served on the party, his attorney, or agent, and disobeyed.

ATTACHMENT.

168. Rules for attachments shall be absolute in the first instance in the two following cases only, viz :—First, for non-payment of costs on a Master's allocatur; secondly, against a sheriff for not obeying a rule to return a writ, or to bring in the body.

AWARDS AND ANNUITIES.

170. Costs may be taxed on an award notwithstanding the time for setting aside the award has not elapsed.

MISCELLANEOUS.

172. On every appointment made by the Master, the party on whom the same shall be served shall attend such appointment without waiting for a second, or in default thereof the Master may proceed *ex parte* on the first appointment.

FORM OF BOND.

Know all men by these presents, that we



of
in the county of _____ and
of _____
in the county of _____
are held and firmly bound to
of _____

in the county of _____ in the sum of _____
to be paid to the said _____
or his certain attorney, executors, adminis-
trators, or assigns, for which payment to be well and
faithfully made, we bind ourselves and each of us, our and
each of our heirs, executors, and administrators, firmly by
these presents, sealed with our seals.

Dated this _____ day of _____
in the year of our Lord _____

WHEREAS an action hath been commenced, and is
now depending in Her Majesty's Court of _____
at Westminster, wherein _____ are
plaintiffs, and the above-named _____
are defendants ; and it has been ordered that the plaintiffs
do give security for the defendants' costs therein : Now,
therefore, the condition of the above-written bond or
obligation is such, that if the above bounden _____

and _____ or
either of them, their or either of their heirs, executors, or
administrators, do pay or cause to be paid unto the said _____
his executors,
administrators, or assigns, such costs as the said _____
shall in due course of law
be liable to pay, in case the said _____

shall discontinue, become nonsuit, or a
verdict shall pass against them in the said action, or in
case of a judgment, or rule, or order, being obtained by
the said _____ for costs,
such costs to be first taxed by one of the Masters in the

usual manner : then the above obligation to be void ;
otherwise to be and remain in full force and virtue.

Signed, sealed, and delivered }
in the presence of }

COUNSEL'S FEES ON ARBITRATION.

When fee given on brief or papers ; in Master's discretion :—

| | | | |
|----------------------------------|----|---|---------|
| For first meeting (single) . . . | £3 | 3 | 0 |
| Double meeting | 2 | 2 | 0 more. |
| Treble do. | 2 | 2 | 0 more. |

When no fee with brief or papers :—

| | | | |
|----------------------------------|----|---|---|
| For first meeting (single) . . . | £5 | 5 | 0 |
|----------------------------------|----|---|---|

And double and treble as before.

| | | | |
|---------------------------------|----|---|---------|
| Subsequent single meeting . . . | £3 | 3 | 0 each. |
|---------------------------------|----|---|---------|

N.B.—A meeting not exceeding three hours is single.

Not exceeding five hours is double.

Above five hours is treble.

ARBITRATOR'S FEES.

| | | | |
|--|----|---|---|
| First meeting (single) . . . | £5 | 5 | 0 |
| Second or subsequent meeting (single) | 3 | 3 | 0 |
| If double meeting | 3 | 3 | 0 |
| If treble meeting | 3 | 3 | 0 |
| Drawing award | 5 | 5 | 0 |

} extra.

If at a distance, £10 10 0, and expenses.

ORDER AS TO LANCASHIRE ASSIZES.

LANCASHIRE TO WIT.—At the session of assizes holden at Liverpool, in and for the southern division of the said county, on Saturday, the 22nd day of March, in the 19th year of the reign of Her Majesty Queen Victoria, before Sir Samuel Martin, Knight, one of the Barons of the said Lady the Queen of her Court of Exchequer, at Westminster, and Sir James Shaw Willes, Knight, one of the Justices of

the said Lady the Queen of her Court of Common Pleas, Westminster, assigned to take the assizes in and for the said county.

For the better and more convenient arrangement of the business of future assizes for the southern division of this county, holden at Liverpool, it is ordered as follows :—The cause-list shall be divided into two parts, to be taken in the following order:—

First.—Causes wherein the official residence of the plaintiff, or of the plaintiff's attornies, shall be in the hundred of Salford.

Second.—Causes wherein such residence shall be in the hundred of West Derby, or elsewhere.

Undefended causes in the first list, unless previously disposed of in regular order, shall be called on for trial on the second business day of the assizes.

Undefended causes in the second list shall be called on for trial at the commencement of that list.

At four o'clock on each day a list shall be drawn out by the prothonotary of a certain number of causes to be taken on the following day, and if the plaintiffs shall not be prepared in any cause, the same shall be struck out, unless the court shall otherwise direct.

The special jury causes shall be called on for trial on the eighth business day of the assizes, and shall be taken in their order, unless the court shall otherwise direct. All common jury causes remaining undisposed of on the eighth business day of the assizes shall be postponed until after the special jury causes shall be disposed of, unless the judge presiding in the Crown Court assist in the trial of causes ; in which case, the causes so postponed, or some of them, shall be sent over to him, of which due notice shall be given.

(Signed) SAMUEL MARTIN,
J. WILLES.

AFFIDAVIT OF INCREASE

IN THE

Between

and

plaintiff,

defendant,

of Manchester, in the county
, gentleman, attorney for the
above-named plaintiff in this cause, make oath and say—

1. That the above-named cause was tried at the last assizes held at Liverpool, in and for the southern division of the county of Lancaster, the commission day for which said assizes was the day of

2. I further say that this cause was entered *in the second* list of causes for trial at the said assizes, which was fixed to commence on the day of

3. That the said cause was in the paper for trial on the several days following, namely

and was tried on the day of
when a verdict was found for the plaintiff.*

4. I further say that I caused *spas. ad test.*
to be issued on behalf of the above-named plaintiff in this cause, and that I did cause the following persons to be served with copies thereof to attend upon the trial of the said cause (here set out the names, addresses, and additions of the witnesses).

5. I further say that I did cause *spas. duces tecum*
to be issued on behalf of the above-named plaintiff in this cause, and I did cause the following persons to be served with copies thereof to attend upon the trial of the said cause, namely (here set out names, addresses, and additions of the witnesses).

6. I further say that in my judgment and belief all the above-mentioned persons were material and necessary

* In counties where a rule, such as in Lancashire, does not exist, then it will not, of course, be necessary to state more than the commission day, and when the cause was tried.

witnesses for the plaintiff on the trial of the said cause, and that the plaintiff could not safely have gone to trial without such witnesses; and that all the said witnesses did attend the said assizes for the purpose of giving evidence on the trial of the same, and they did not attend on that occasion as witnesses in any other cause* [nor had they, to the best of this deponent's belief, any other business] at the said assizes.

7. I further say that _____ is distant from _____ the defendant's place of business _____ miles, and from Liverpool aforesaid _____ miles, and that _____ is distant from _____ aforesaid _____ miles, and from Liverpool aforesaid _____ miles.†

8. I further say that I sent a *spas. ad test.* (or *du. tec.*)‡ (as the case may be) to an attorney at _____, in the county of _____, for service; and I did pay to the said attorney for such service the sum of £ _____ ||

9. I further say that my place of abode is distant from Liverpool aforesaid _____ miles, or thereabouts.

10. I further say that all the said witnesses, except the said _____ and _____ were necessarily absent from their respective places of abode in going to, staying at, and returning from the said assizes _____ days, and that the said _____ and _____ were respectively absent upon the same occasion _____ days.

11. I further say that my clerk did attend the said

* The portion within brackets need only be stated when there are legal witnesses.

† It would be very desirable where there is railway communication that the fares between the various residences and the assize town should be stated. If witnesses served by the attorney, and the witnesses are not in the same direction, he should so state. If in the same direction, then he should state how far the second and subsequently mentioned places are respectively distant from each other.

‡ The *spas.* should be sent to a correspondent nearest to the witness, and if the mileage from such correspondent be great, it should be stated that such correspondent was the nearest attorney.

|| Here state all the witnesses served by correspondent.

assizes, and was a material and necessary witness for the said plaintiff on the trial of this cause, and was necessarily absent from Manchester, in the said county of Lancaster, in going to, staying at, and returning from the said assizes days, and he had not on that occasion any other business at the said assizes.*

12. I further say I attended the said assizes as attorney for the said plaintiff,† and was necessarily absent from my place of abode in going to, staying at, and returning from the said assize, on occasion of the trial of this cause, days, and I had not on that occasion any other business at the said assizes.

13. I further say that my brief consisted of sheets of paper, and that I delivered one copy to Mr. _____, and did pay therewith a fee of _____ guineas, and also delivered another copy to Mr. _____ and did pay therewith a fee of _____ guineas; and I also paid a consultation fee to Mr. _____ of £2 9s. 6d., and to Mr. _____ £1 3s. 6d.

14. I further say that it was absolutely necessary to have plans prepared for use on the trial of the said cause, and that I accordingly had the same prepared, for which I paid the sum of £ † [and that such plans were used by the judge, jury, and counsel upon the trial.]

15. I further say that I paid the following court fees :

16. And I further say that I have paid the said witnesses the sums set forth in the schedule hereunder set forth.

* If not a witness, and he was taken for the purpose of aiding the attorney at the trial, let it be stated.

† If the country practitioner should attend upon a trial of a cause in London in which he is concerned as attorney, it must be shown in the affidavit from the importance and intricate nature of the case the agent could not have attended to it with safety to the client's interest, it requiring the intimate knowledge and personal explanation of the attorney, or such other facts as would show the necessity for his attendance.

If the fact can be stated, then all discussion as to allowance will be saved.

17. And I lastly say that the said plaintiff was a material and necessary witness on his own behalf upon the trial of this cause, and he was necessarily absent in going to, staying at, and returning from the said assizes days, and he was not a witness in any other cause at the said assizes, and I have paid to the said several witnesses for their attendance at the said assizes, and also for their travelling expenses, the several sums of money as set forth in the following scale :—

| Names. | Residence. | Occupation. | Distance from Assize. | Days absent. | Distance from Plaintiff's Attorney. |
|--------|------------|-------------|-----------------------|--------------|-------------------------------------|
| | | | | | |

N.B.—If a witness has a residence in town as well as in the country, and he is charged for as a country witness, and was subpoenaed in the country to attend a trial in town, the affidavit should state that he came to town expressly, and returned to his country residence in reasonable time after the termination of the trial.

IN THE

PLAINTIFF'S COSTS.

ABOVE £20.

A. v. B.

Term, 185

| | £ | s | d |
|---|---|----|----|
| Letter* | 0 | 3 | 6 |
| Instructions to sue | 0 | 6 | 8 |
| Summons and fee | 0 | 12 | 6 |
| Special indorsement | 0 | 5 | 0 |
| Copy and service | 0 | 5 | 0 |
| Mileage—1s. per mile, if no railway; if a railway, railway fare. | | | |
| If sent to correspondent, then charge writing, with copy for service. | 0 | 3 | 6 |
| Correspondent's charges, including affidavit | 0 | 18 | 0 |
| Copy writ to annex to affidavit | 0 | 1 | 0 |
| Searching for appearance and paid† | 0 | 3 | 10 |
| Copy bond upon which action brought for counsel | | | |
| Copies of, or extracts from, documents are allowed when made to enable counsel to settle declaration, and when forming part thereof | | | |
| Declaration fee, and if not exceeding 10 folios. | 1 | 5 | 0 |
| If beyond that length, then drawing extra length, 1s. per folio, say 10 folios | 0 | 10 | 0 |
| Fee to Mr. , to settle | 2 | 4 | 6 |
| Attending him | 0 | 6 | 8 |
| Ingrossing extra length, folios 10 | 0 | 3 | 4 |
| Close copy declaration, folios 20 | 0 | 6 | 8 |
| Instructions for interrogatories‡ | 0 | 6 | 8 |
| Drawing same, folios 20 | 1 | 0 | 0 |
| Fee to Mr. , to settle | 2 | 4 | 6 |

* If more than one defendant, and they are not in partnership, additional letters are allowed, if written at the rate of 1s. 6d. each.

† More than one search is allowed, if necessary.

‡ The costs of interrogatories are not costs for the party seeking to exhibit them, unless ordered to be costs in cause.

| | £ | s. | d. |
|---|---|----|----|
| Attending him | 0 | 6 | 8 |
| Fair copy for the judge | 0 | 6 | 8 |
| Fair copy for the defendant | 0 | 6 | 8 |
| Instructions for affidavit in support of sum- mons for interrogatories | 0 | 6 | 8 |
| Drawing same and fair copy | 0 | 6 | 0 |
| Attending plaintiff to be sworn | 0 | 3 | 4 |
| Paid oaths | 0 | 2 | 0 |
| Summons to exhibit interrogatories, copy and service | 0 | 5 | 0 |
| Copy affidavit for the defendant | 0 | 2 | 0 |
| *Instructions to counsel to attend summons | 0 | 6 | 8 |
| Copy summons for him | 0 | 1 | 0 |
| Copy affidavit for him | 0 | 2 | 0 |
| Fee to him and clerk | 2 | 4 | 6 |
| Attending him | 0 | 6 | 8 |
| Notice of attending summons by counsel | 0 | 4 | 0 |
| Attending summons order made and copy order | 0 | 7 | 8 |
| Paid for order | 0 | 5 | 0 |
| Copy and service | 0 | 3 | 0 |
| Paid attending summons by counsel | 0 | 5 | 0 |
| Copy interrogatories, as settled by the judge for the defendant† | 0 | 6 | 8 |
| Close copy interrogatories | 0 | 6 | 8 |
| Notice to plead, copy, and service | 0 | 4 | 0 |
| Summons to inspect deeds, &c., copy, and ser- vice | 0 | 5 | 0 |
| Instructions for affidavit in support‡ | 0 | 6 | 8 |
| Drawing same, folios 6 | 0 | 6 | 0 |
| Ingrossing | 0 | 2 | 0 |
| Attending to be sworn and paid oath | 0 | 4 | 4 |
| Copy affidavit for the defendant | 0 | 2 | 0 |
| Attending summons order made and copy order | 0 | 7 | 8 |

* These costs only allowed when the judge certifies for counsel.

† Interrogatories by plaintiff are generally delivered with declaration, but the judge can order them before or after.

‡ Instructions allowed if affidavit made by a party other than the attorney or his clerk.

| | £ | s. | d. |
|---|---|----|----|
| Paid for order | 0 | 5 | 0 |
| Copy and service | 0 | 3 | 0 |
| Attending to inspect* | 0 | 6 | 8 |
| Paid for copy documents, folios 20 | 0 | 6 | 8 |
| Close copy documents | 0 | 6 | 8 |
| Attending summons for time to plead, and copy order | 0 | 7 | 8 |
| Copy abstract of pleas | 0 | 1 | 0 |
| Attending summons to plead several matters, order made, and copy order | 0 | 7 | 8 |
| Copy abstract, as allowed by the judge | 0 | 1 | 0 |
| Copy pleas, folios 12 | 0 | 4 | 0 |
| Copy particulars of set-off (according to length) | | | |
| Instructions for replications | 0 | 6 | 8 |
| Drawing same, folios 6 | 0 | 6 | 0 |
| Fee to counsel to settle† | 1 | 3 | 6 |
| Attending him | 0 | 3 | 4 |
| Ingrossing | 0 | 2 | 0 |
| Close copy | 0 | 2 | 0 |
| Notice to rejoin, copy, and service | 0 | 4 | 0 |
| Joinder of issue, copy, and service ‡ | 0 | 4 | 0 |
| Drawing issue | 0 | 6 | 8 |
| Ingrossing, at 4d. per folio | | | |
| Close copy | | | |
| Notice of trial, copy, and service | 0 | 4 | 0 |
| Close copy | 0 | 1 | 0 |
| Instructions to counsel to advise on case and evidence (In Master's discretion.) | | | |
| Fee to counsel therewith (say) | 2 | 4 | 6 |
| Attending him | 0 | 6 | 8 |

* The costs of application to inspect are not costs for the applicant, unless expressly ordered; but if the party granting the inspection succeed, then they are his costs.

The costs of inspection are always paid for by the applicant, viz., 6s. 8d. per hour, and 4d. per folio when copies are furnished.

† Fee to settle allowed when pleadings are special.

‡ Where replications not special.

|| If a brief is subsequently charged and allowed, and the statement in the discretion of the Master will warrant the allowance, then fee according to importance of case, &c.

| | £ | s. | d. |
|---|---|----|----|
| Copy opinion | 0 | 2 | 0 |
| Notice to inspect, copy, and service, 7s. 6d., or more, according to length. | | | |
| Duplicate for proof (ordinary length, 2s.) . . | | | |
| Notice to produce, copy, and service, like charge as in notice to admit | | | |
| Duplicate for proof | | | |
| Attending for inspection—(if longer than one hour, then 6s. 8d. for each hour above the first). | 0 | 6 | 8 |
| Attending on admission being given | 0 | 6 | 8 |
| If admission not given, then | | | |
| Drawing and ingrossing affidavit of service, of notice to produce, and oath | 0 | 7 | 0 |
| Ingrossing record, per folio, 6d. | | | |
| Parchment (according to length of record) . . | | | |
| Copy particulars to annex | | | |
| Copy particulars of set-off to annex | | | |
| Fee on record | 0 | 6 | 8 |
| Spas. ad test. | 0 | 7 | 0 |
| Copy and service, and paid conduct money, 1s. Subp. du. tec. | 0 | 6 | 0 |
| Copy and service, and paid conduct money . . | 0 | 9 | 0 |
| Copy and service, and paid conduct money . . | 0 | 8 | 0 |
| Notice of special jury, copy, and service . . | 0 | 5 | 0 |
| The like to sheriff | 0 | 5 | 0 |
| Attending for common jury panel, and paid . . | 0 | 4 | 4 |
| Attending for special jury panel, and paid . . | 0 | 7 | 8 |
| Attending to enter cause | 0 | 6 | 8 |
| Paid | 1 | 5 | 0 |
| Instructions for brief—in the Master's discretion, the ingredients for his consideration being the number of witnesses, the length of documentary evidence, the amount in dispute, the difficulties of the case, the journeys necessarily taken to obtain the witnesses' evidence, &c.* | | | |

* These are the charges if cause tried in London or Middlesex, or if attorney reside in the assize town. If attorney do not reside at assize town, he is allowed for journey to enter cause.

| | £ | s. | d. |
|--|---|----|----|
| Drawing same, 1s. per folio (excluding copies of letters and other matters) | | | |
| Two fair copies for counsel, 4d. per folio | | | |
| Fee to Mr. , with one copy* | | | |
| Attending him | 0 | 6 | 8 |
| If fee 20 guineas, then 13s. 4d. | | | |
| Consultation fee | 2 | 9 | 6 |
| Fee to Mr. , with brief | | | |
| Attending him | 0 | 6 | 8 |
| Consultation fee | 1 | 3 | 6 |
| Attending to appoint consultation, if cause tried in London or Middlesex, or the attorney resides in the assize town | 0 | 6 | 8 |
| Attending consultation do. | 0 | 13 | 4 |
| Journey to the assizes, cause tried, and verdict for the plaintiff, engaged 3 days | 9 | 9 | 0 |
| Paid railway and cab fares. | | | |
| If attorney reside in the assize town, then 13s. 4d. each day he attends court when cause not tried, and £1 1s. on day of trial; and if a long day, then £2 2s. | | | |
| Paid court fees | | | |
| Paid for certificate of special jury | | | |
| Paid special jury | | | |
| Paid the witnesses as follows: | | | |
| [Set them out; but in the Q. B. it need not be done, as the Master's clerk makes out a scale from the affidavit of increase, for which purpose the affidavit must be filed the day previous to the day for which notice of taxation is given.] | | | |
| Term fee, &c | 0 | 15 | 0 |

* Unless cause of great importance, and many witnesses, more than two counsel are not allowed; but not usually, unless there are 10 witnesses. This is, and must of necessity be, much in the Master's discretion.

Term, 185 .

| | £ | s. | d. |
|--|---|----|----|
| Porterage, booking, and carriage parcel with papers to London | | | |
| Attending for record | 0 | 3 | 4 |
| Drawing and ingrossing postea | 0 | 5 | 0 |
| Drawing judgment | 0 | 3 | 4 |
| Attending to sign | 0 | 3 | 4 |
| Paid | 0 | 10 | 0 |
| Drawing and ingrossing affidavit of increase (according to length), folios 20 | 1 | 0 | 0 |
| Paid oath | 0 | 1 | 0 |
| If plaintiff or a third party a deponent, then charge attending him to be sworn | 0 | 3 | 4 |
| Paid oath | 0 | 1 | 0 |
| Attending to file affidavit and paid | 0 | 5 | 4 |
| Copy affidavit for the defendant | 0 | 6 | 8 |
| Costs and copy | | | |
| Copy for the defendant | | | |
| Notice of taxing, copy, and service | 0 | 4 | 0 |
| Attending taxing, according to length of time occupied ; but if an ordinary bill | 0 | 13 | 4 |
| Paid | | | |
| Term fee | 0 | 15 | 0 |
| Paid for plans (not exceeding) | 3 | 3 | 0 |

This is the sum fixed by the scale of costs for plans or models ; but when both plans and models are necessary, we have known the Masters to allow both ; and in cases when many different plans or models are necessary, the Masters will, in their discretion, allow £3 3s. for each set of plans or models, provided each cost as much. We have also known in a case, which might have been called a geological case, the Master to allow for plans of the subsoil and surface—allowing £3 3s. for each set.

If office copies of documents are necessary, they are allowed.

If copies of the pleadings are necessarily delivered to the judge, they are allowed.

QUEEN'S BENCH.

DEFENDANT'S COSTS.

ABOVE £20.

A. v. B.

Term, 185

| | £ | s. | d. |
|---|---|----|----|
| Instructions to defend | 0 | 6 | 8 |
| Appearance and fee | 0 | 7 | 0 |
| Each extra defendant | 0 | 1 | 6 |
| Notice of appearance, copy, and service | 0 | 4 | 0 |
| Letters, &c. | 0 | 5 | 0 |

Term.

| | | | |
|--|---|---|---|
| Close copy declaration, folios 12 | 0 | 4 | 0 |
| Close copy particulars | 0 | 2 | 0 |
| Summons for time to plead, copy, and service | 0 | 5 | 0 |
| Attending summons and copy order | 0 | 7 | 8 |
| Order, copy, and service | 0 | 5 | 0 |

[Two summonses and orders for time are allowed in very important cases, and when they are necessary, and in extreme cases, we have known more than two allowed.]

| | | | |
|---|---|---|---|
| Instructions for pleas | 0 | 6 | 8 |
| Drawing same, folios 8 | 0 | 8 | 0 |
| Fee to Mr., to settle | 1 | 3 | 6 |
| Attending him* | 0 | 3 | 4 |
| Ingrossing pleas | 0 | 2 | 8 |
| Close copy | 0 | 2 | 8 |
| Drawing and fair copy abstract of pleas | 0 | 5 | 4 |
| Close copy | 0 | 1 | 0 |
| Summons to plead several matters, order made, copy, and service | 0 | 5 | 0 |
| Attending summons, order made, and copy order | 0 | 7 | 8 |
| Order, copy, and service | 0 | 6 | 0 |
| Copy abstract to annex | 0 | 1 | 0 |

* If fee 2 guineas, then 6s. 8d.

| | £ | s | d. |
|--|---|---|----|
| Notice to reply | 0 | 4 | 0 |
| Attending summons for time to reply, and copy order | 0 | 7 | 8 |
| Copy replication, folios 4 | 0 | 1 | 4 |
| Copy issue, folios 24 | 0 | 8 | 0 |
| Copy notice of trial | 0 | 1 | 0 |
| Copy notice of special jury | 0 | 1 | 0 |

[The observations as to case on evidence, notices to admit and produce, briefs, attending the assizes, &c., apply equally to this bill of costs.]

| | | | |
|--------------------------------------|---|---|---|
| Searching if cause entered | 0 | 3 | 4 |
|--------------------------------------|---|---|---|

If the attorney reside in the assize town ;
but if not, then he may attend the assizes
on the commission day to watch the
entry.

At Liverpool all cases are taken as undefended if they are not marked defended ;
consequently the defendant's attorney
should attend and mark the cause "defended," for which he is entitled to 3s. 4d.

TABLES OF FEES.

In pursuance of an Act passed in the session of Parliament held in the fifteenth and sixteenth years of the reign of Her Majesty, chapter seventy-three, entitled "An Act to make provision for a permanent Establishment of Officers to perform the duties at Nisi Prius, in the Superior Courts of Common Law, and for the payment of such Officers, and of the Judges' Clerks by Salaries, and to abolish certain Offices in those Courts," we, the undersigned, being Two of the Commissioners of Her Majesty's Treasury, have caused the undermentioned Tables of Fees to be prepared, specifying the Fees proper to be demanded and taken in the Offices under-mentioned, and at the Judges' Chambers, in the Superior Courts of Common Law; and that all other Fees in such Offices and Chambers should be abolished, namely:—

Offices of the Masters of the Three Superior Courts.

| | £ | s. | d. |
|---|---|----|----|
| Every writ (except writ of trial or subpoena) . | 0 | 5 | 0 |
| Every concurrent, alias, pluries, or renewed writ . | 0 | 2 | 6 |
| Every writ of trial | 0 | 2 | 0 |
| Every writ of subpoena before a judge or Master before the sheriff . | 0 | 2 | 0 |
| Every appearance entered | 0 | 1 | 0 |
| — each defendant after the first | 0 | 2 | 0 |
| Filing every affidavit, writ, or other proceeding | 0 | 2 | 0 |
| Amending every writ or other proceeding . | 0 | 2 | 0 |
| Every ordinary rule | 0 | 1 | 0 |
| Every special rule, not exceeding 6 folios . | 0 | 4 | 0 |
| — exceeding 6 folios, per folio | 0 | 0 | 6 |

[*Note*.—Plans, sections, &c. accompanying rules to be paid for by the party taking the rule, according to the actual cost.]

| | £ | s. | d. |
|---|---|----|----|
| Every judgment by default | 0 | 5 | 0 |
| Every final judgment, otherwise than judgment by default | 0 | 10 | 0 |
| Taxing every bill of costs, not exceeding 3 folios | 0 | 2 | 0 |
| — exceeding 3 folios when taxed as between party and party, per folio | 0 | 0 | 6 |
| — exceeding 3 folios, when taxed as between attorney and client, or where the attorney taxes his own bill, per folio | 0 | 1 | 0 |
| Every reference, inquiry, examination, or other special matter, referred to the Master, for every meeting, not exceeding one hour . . . | 0 | 10 | 0 |
| — for every additional hour, or less | 0 | 10 | 0 |
| Upon payment of money into court, viz.— | | | |
| for every sum under £50 | 0 | 5 | 0 |
| £50 and under £100 | 0 | 10 | 0 |
| £100 and above that sum | 1 | 0 | 0 |
| Every certificate | 0 | 1 | 0 |
| Office copies of præcipe, or other proceedings, per folio | 0 | 0 | 6 |
| Every search, if not more than two terms . . | 0 | 0 | 6 |
| — exceeding two, and not more than four terms | 0 | 1 | 0 |
| — exceeding four terms, or a general search | 0 | 2 | 6 |
| Every affidavit, affirmation, &c., taken before the Master | 0 | 1 | 0 |
| Filing every recognizance or security in eject- ment or error | 0 | 2 | 6 |
| Every allowance and justification of bail . . | 0 | 3 | 0 |
| For taking special bail as a commissioner . . | 0 | 2 | 0 |
| Filing affidavit, and inrolling articles previous to the admission of an attorney | 0 | 5 | 0 |
| Every re-admission of an attorney | 0 | 5 | 0 |
| All other fees than those before mentioned are hereby abolished, and are not to be taken by any person in the Masters' Offices, under any pretence whatever. | | | |

Offices of the Associates to the Three Chief Judges.

| | £ | s | d. |
|--|---|----|----|
| Every record of Nisi Prius, delivered to the Associate, to be entered for trial . . . | 1 | 5 | 0 |
| Every trial of a cause from plaintiff . . . | 1 | 0 | 0 |
| ————— from defendant . . . | 0 | 15 | 0 |
| ————— If the trial continues more than one day, then for every other day, from plaintiff and defendant, each . . . | 0 | 10 | 0 |
| Returning the postea . . . | 0 | 5 | 0 |
| Every cause made remanet, at the instance of the parties, to be paid by plaintiff or defendant, as the case may be . . . | 0 | 10 | 0 |
| Every cause withdrawn, to be paid by the party at whose instance it is withdrawn . . | 0 | 5 | 0 |
| Re-entering every record of Nisi Prius, made remanet, &c. | 0 | 2 | 0 |
| Every reference, from plaintiff and defendant, each | 0 | 5 | 0 |
| Every amendment of any proceeding whatever | 0 | 2 | 0 |
| Every order or certificate | 0 | 5 | 0 |
| Every special case, or special verdict, in addition to the charge for engrossing and copying, at the rate of 4d. per folio, from plaintiff and defendant, each | 0 | 10 | 0 |
| Attending any court or otherwise, with any record, or other proceeding, under writ of subpoena, or special order of court per day | 1 | 0 | 0 |
| All other fees than those before mentioned are hereby abolished, and are not to be taken by any person in the Associates' Offices, under any pretence whatever. | | | |

Chambers of the Chief and Puisne Judges.

| | | | |
|---|---|---|---|
| Every summons to try an issue before the sheriff | 0 | 1 | 0 |
| Every other summons whatever, whether in term or vacation | 0 | 2 | 0 |

| | £ | s. | d. |
|---|---|----|----|
| Every order to try an issue before the sheriff | 0 | 1 | 0 |
| Every other order whatever of an ordinary nature | 0 | 2 | 0 |
| Every order of a special nature, such as reference to arbitration, or attendance of witnesses at arbitration; service of process on persons residing abroad; reference to the Master to fix sum for final judgment; revival of judgment, and the like | 0 | 5 | 0 |
| Every fiat, warrant, certificate, caveat, special case, special verdict, or the like | 0 | 5 | 0 |
| Every affidavit, affirmation, &c., whether in term or vacation, each deponent | 0 | 1 | 0 |
| Every affidavit kept for the purpose of being conveyed to the proper office to be filed | 0 | 1 | 0 |
| Every proceeding filed | 0 | 2 | 0 |
| Every admission of an attorney | 1 | 0 | 0 |
| Every approbation of commissioners for taking affidavits or special bail | 0 | 2 | 6 |
| Every commission for taking affidavits or special bail, exclusive of stamp duty, ingrossing and sealing | 1 | 0 | 0 |
| Every other commission for any purpose whatever, exclusive of stamp duty, ingrossing, and sealing | 0 | 10 | 0 |
| Every acknowledgment by married women | 0 | 10 | 0 |
| Office copies of judge's notes, or of any other proceeding whatever, per folio | 0 | 0 | 6 |
| Every recognizance or bond of any description whatever | 0 | 10 | 0 |
| Every allowance of writ of error | 0 | 10 | 0 |
| Bail on cepi corpus, habeas corpus, error, or ejectment | 0 | 2 | 0 |
| Delivering bail piece off the file, or justification of bail | 0 | 2 | 0 |
| Every committal | 0 | 5 | 0 |
| Every exhibit signed by judge | 0 | 1 | 0 |
| Producing judge's notes | 0 | 5 | 0 |
| Bill of exceptions signed by judge | 0 | 5 | 0 |

| | £ | s | d |
|--|---|----|---|
| Order in legacy duty cases | 0 | 5 | 0 |
| Crown revenue cases, from defendant | 0 | 5 | 0 |
| Attendance in any court, or otherwise, under subpœna or special order of court, to give evidence, or produce documents per day | 1 | 0 | 0 |
| Attendance as a commissioner to take affidavit, &c., or at a judge's house, or elsewhere, at request of parties | 0 | 10 | 0 |
| Appointment of commissioners under glebe exchange | 1 | 0 | 0 |
| Allowance of bye-laws or table of fees | 1 | 0 | 0 |
| Report on private bill | 5 | 0 | 0 |
| Attendance by counsel, each side | 0 | 5 | 0 |

NOTE.—All plans, sections, &c., accompanying any order or office copy, to be paid for by the party, according to the actual cost.

In cases where the party has been allowed to sue *in formâ pauperis*, the fees are not to be demanded or taken, nor in cases where such fees would be payable by any Revenue or other Government Department.

All other fees than those before mentioned are hereby abolished, and are not to be taken by any person at the Judges' Chambers under any pretence whatever.

Given under our hands at the Treasury Chambers, Whitehall, this twentieth day of November, 1852.

Chandos, } Two of the Commissioners
Thos. Bateson, } of Her Majesty's Treasury.

We, the undersigned Judges of the Superior Courts of Common Law, do settle, allow, and sanction the before-

mentioned Table of Fees prepared by the Commissioners of Her Majesty's Treasury, and we do hereby establish the same, under the provisions of the aforesaid Act.

Dated the twenty-second day of November, 1852.

| | | |
|------------------------|---|--|
| <i>Campbell,</i> | { | Lord Chief Justice of the Court of Queen's Bench. |
| <i>John Jervis,</i> | | Lord Chief Justice of the Court of Common Pleas. |
| <i>Fred. Pollock,</i> | { | Lord Chief Baron of the Court of Exchequer. |
| <i>W. H. Maule,</i> | | { |
| <i>E. V. Williams,</i> | | |
| <i>T. N. Talfourd,</i> | | |

The before-mentioned Tables of Fees having been sanctioned and allowed by the Lord Chief Justice, the Lord Chief Baron, and other Judges, as required by the said Act, we do hereby order that the said Tables of Fees be inserted and published in the *London Gazette*.

Treasury Chambers, Whitehall, the twenty-second day of November, 1852.

| | | |
|-----------------------|---|--|
| <i>Chandos,</i> | { | Two of the Commissioners of Her Majesty's Treasury. |
| <i>Thos. Bateson,</i> | | |

Supplement to the London Gazette of Tuesday, the 23rd of November.

DIRECTIONS TO THE MASTERS OF THE
COURTS.

(In lieu of Directions now in force.)

1. Between the 1st day of September and the 24th day of October in each year, one of the Masters of the Courts of Queen's Bench, Common Pleas, or Exchequer, shall have authority to tax bills of costs, take references, and perform other necessary and immediate matters arising in or appertaining to any or either of the said courts at the office of his own court; and for such purpose one of the Masters shall attend on certain days in each week, as may be found necessary, and of which due notice shall be affixed in the judge's chambers, and in the respective offices of the Masters of each court; and such Master shall be considered as the Vacation Master.

2. In order to diminish as much as possible the costs arising from the copying of documents to accompany the briefs of counsel, the Masters are to allow only the copying of such documents, or such parts of documents, as they may consider necessary for the instruction of counsel, or for use at the trial.

3. No fee to counsel to be allowed on writs of trial, except on trials before the Judge of the Sheriff's Court of London, or of other courts of record where attornies are not allowed to practise, and then one guinea only.

4. The Masters shall have discretion in all cases to allow as between party and party the fees of counsel or special pleader for drawing pleadings or other proceedings, whether special or otherwise, and advising.

5. When judgment is signed on a cognovit, or on a judge's order authorizing the plaintiff to sign judgment, no declaration to ground judgment shall be necessary or allowed on the taxation of costs.

6. The costs of attendance by counsel or special pleader before a judge at chambers shall in no case be allowed as

between party and party, unless the judge shall certify for such allowance.

7. In all actions on contract, other than cases wherein by reason of the nature of the action no writ of trial can by law be issued, where the sum recovered or paid into court, and accepted by the plaintiff in satisfaction of his demand, or agreed to be paid on the settlement of the action, shall not exceed twenty pounds (without costs), the plaintiff's costs as against the defendant shall be taxed according to the lower scale of allowances in the Schedule of Costs hereunto annexed. Provided, that in case of trial before a judge of one of the superior courts, or judge of assize, if the judge shall certify on the *postea* that the cause was proper to be tried before him, and not before a sheriff or judge of an inferior court, the costs shall be taxed on the higher scale.

8. Where in like actions the sum endorsed on the summons shall be more than twenty pounds, but the plaintiff fails to recover more than that sum, and the judge does not certify as aforesaid, the plaintiff's costs against the defendant, whether between party and party, or as between attorney and client, shall be taxed as upon a writ of trial before a judge of a court of record where attornies are not allowed to act as advocates, as hereinafter provided for, but the defendant's costs, if any, are to be taxed upon the higher scale ; provided, that in cases triable before the sheriff or judge of an inferior court, where the judge shall refuse to make an order for such trial, the judge may, if he shall think fit, direct at the time of such refusal on what scale the costs of each party shall be taxed, and in default of such direction, the costs of both parties shall be taxed on the higher scale.

9. At the head of every bill of costs taken to the taxing officer to be taxed, it shall be stated whether the sum recovered, accepted, or agreed to be paid exceeds the sum of twenty pounds, or not, in the following form :—

Debt above twenty pounds.

Debt twenty pounds or under.

GENERAL ALLOWANCE FOR PLAINTIFFS AND DEFENDANTS; AND IN CASES UNDER £20 AS WELL BETWEEN ATTORNEY AND CLIENT AS BETWEEN PARTY AND PARTY.

| | ABOVE £20. | | | UND. £20. | | |
|---|------------|----|----|-----------|----|----|
| | £ | s. | d. | £ | s. | d. |
| WRITS. | | | | | | |
| Summons | 0 | 12 | 6 | 0 | 10 | 0 |
| Concurrent summons | 0 | 10 | 0 | 0 | 7 | 6 |
| Renewed summons | 0 | 10 | 0 | 0 | 7 | 6 |
| Capias | 0 | 12 | 6 | — | | |
| Alias | 0 | 10 | 0 | — | | |
| Pluries | 0 | 10 | 0 | — | | |
| Capias ad satisfaciendum | 0 | 12 | 0 | 0 | 11 | 0 |
| Renewed ca. sa. | 0 | 9 | 6 | 0 | 8 | 6 |
| Ca. sa. for the residue | 0 | 14 | 0 | 0 | 13 | 0 |
| Renewed | 0 | 11 | 6 | 0 | 10 | 6 |
| Fieri facias | 0 | 12 | 0 | 0 | 11 | 0 |
| Renewed | 0 | 9 | 6 | 0 | 8 | 6 |
| Renewed for the residue | 0 | 14 | 0 | 0 | 13 | 0 |
| Renewed | 0 | 11 | 6 | 0 | 10 | 6 |
| Fi. fa. de bonis ecclesiasticis | 0 | 14 | 6 | — | | |
| Renewed | 0 | 12 | 0 | — | | |
| Habere facias pos. and fi. fa. or ca. sa. for costs in one writ | 0 | 18 | 0 | — | | |
| Habere fa. pos. alone | 0 | 15 | 0 | — | | |
| Special indorsements on writs of summons | 0 | 5 | 0 | 0 | 2 | 6 |
| Writ of revivor | 0 | 12 | 6 | 0 | 10 | 0 |
| Ejectment | 0 | 15 | 0 | — | | |
| Of trial, exclusive of fee | — | | | 0 | 8 | 0 |
| Subpoena ad test | 0 | 7 | 0 | 0 | 5 | 0 |
| Subpoena duces tecum | 0 | 9 | 0 | 0 | 7 | 0 |
| If above four folios, additional per folio | 0 | 0 | 8 | 0 | 0 | 4 |

| WRITS— <i>continued.</i> | ABOVE £20. | | | UND. £20. | | |
|--|------------|----|----|-----------|----|----|
| | £ | s. | d. | £ | s. | d. |
| Exigi facias | 1 | 1 | 0 | — | | |
| Capias utlagatum | 1 | 1 | 0 | — | | |
| Elegit, Nos. 9, 10, and 11, in New Rules | 0 | 15 | 0 | — | | |
| Ditto, Nos. 12, 13, and 14 | 1 | 0 | 0 | — | | |
| Attachment | 0 | 12 | 0 | — | | |
| Detainer | 0 | 12 | 6 | — | | |
| Habeas corpus obtained by plaintiff, including allowance | 1 | 0 | 0 | — | | |
| Procedendo | 0 | 15 | 0 | — | | |
| Venditioni exponas | 0 | 13 | 6 | — | | |
| Supersedeas, if not issued by a prisoner | 0 | 11 | 0 | — | | |
| COPY AND SERVICE OF WRITS. | | | | | | |
| Of summons, the defendant being served in London, Middlesex, or Surrey, within two miles of the place of business of the attorney, for each defendant | 0 | 5 | 0 | 0 | 5 | 0 |
| If beyond that distance, additional for every mile, but in cases under £20 not to exceed 10 miles | 0 | 1 | 0 | 0 | 0 | 6 |
| If the defendant should be served in any other county, the same allowance, but the distance to be calculated from the office of the attorney employed to effect service. | | | | | | |
| Of writ of revivor, the same as summons. | | | | | | |
| Of writ of ejectment, the same as of writ of summons for each defendant | } 0 0 4 | | | | | |
| And in addition, for every folio of copy beyond three | | | | | | |
| Correspondent's charges for service | | | | | | |

| COPY AND SERVICE OF WRITS— <i>continued.</i> | ABOVE £20. | | | UND. £20. | | |
|---|------------|----|----|-----------|----|----|
| | £ | s. | d. | £ | s. | d. |
| of writ, including affidavit of service, and exclusive of mileage in cases in which the fixed sum for costs does not apply . . . | 0 | 18 | 0 | 0 | 12 | 0 |
| The like for service of subpoenas . . . | 0 | 8 | 6 | 0 | 5 | 0 |
| Extra for subpoenas duces tecum . . . | 0 | 2 | 0 | 0 | 2 | 0 |
| Notice of writ for service on a foreigner out of jurisdiction . . . | 0 | 3 | 0 | 0 | 3 | 0 |
| Agent's charges according to circumstances, &c. | | | | | | |
| In cases in which the defendant shall avoid service, and an order shall be made to proceed, a sum will be allowed for attendances to serve, according to circumstances. | | | | | | |
| Of subpoena ad test. | 0 | 5 | 0 | 0 | 3 | 0 |
| Of subpoena duces tecum | 0 | 7 | 0 | 0 | 5 | 0 |
| Mileage as before. | | | | | | |
| INSTRUCTIONS. | | | | | | |
| Instructions to sue or defend, for pleadings, special affidavits where allowed, and to counsel on special matters | 0 | 6 | 8 | 0 | 3 | 4 |
| To counsel in common matters | 0 | 3 | 4 | 0 | 3 | 4 |
| For brief | 0 | 13 | 4 | 0 | 6 | 8 |
| If difficult, and many witnesses or documents, discretionary | — | — | — | Nil. | | |
| For every suggestion | 0 | 6 | 8 | 0 | 3 | 4 |
| For plea of suggestion | 0 | 6 | 8 | 0 | 3 | 4 |
| For issue in fact by consent | 0 | 13 | 4 | 0 | 6 | 8 |
| For suggestion to revive, or writ of revivor, when no rule necessary. | 0 | 6 | 8 | 0 | 3 | 4 |
| For rule for writ of revivor, when necessary | 0 | 6 | 8 | 0 | 3 | 4 |
| For proceeding in error | 0 | 6 | 8 | — | | |

| INSTRUCTIONS— <i>continued</i> . | ABOVE £20. | | | UND. £20. | | |
|--|------------|----|----|-----------|----|----|
| | £ | s. | d. | £ | s. | d. |
| To defend for executor, after suggestion of death of original defendant | 0 | 6 | 8 | 0 | 3 | 4 |
| For agreement of damages | 0 | 6 | 8 | 0 | 3 | 4 |
| For grounds of error | 0 | 6 | 8 | — | | |
| For assignment of errors after notice | 0 | 6 | 8 | — | | |
| For confession of action in ejectment as to the whole or in part. | 0 | 6 | 8 | — | | |
| To reduce special jury | 0 | 13 | 4 | — | | |
| DRAWING PLEADINGS, &c. | | | | | | |
| Declaration, inclusive of instructions and ingrossing, and of attendance to file or deliver | 1 | 5 | 0 | 0 | 10 | 0 |
| If above ten folios, for every folio | 0 | 1 | 0 | 0 | 1 | 0 |
| One or more pleas, if three folios or under, exclusive of instructions, but inclusive of ingrossing | 0 | 4 | 0 | 0 | 3 | 0 |
| If above three folios, for every folio drawing | 0 | 1 | 0 | 0 | 1 | 0 |
| Joinder of issue, inclusive of ingrossing | 0 | 4 | 0 | 0 | 3 | 0 |
| Demurrer, inclusive of ingrossing | 0 | 4 | 0 | 0 | 3 | 0 |
| Joinder in demurrer, inclusive of ingrossing | 0 | 4 | 0 | 0 | 3 | 0 |
| Marginal statement of matter of law for argument, exclusive of copies for the judges | 0 | 6 | 8 | 0 | 3 | 4 |
| Replications, new assignments, grounds of error, assignment of errors, pleas to assignment of errors, and other pleadings, the same as the foregoing charges for pleas | 0 | 6 | 8 | 0 | 3 | 4 |
| Issue or demurrer book | 0 | 6 | 8 | 0 | 3 | 4 |
| Record | Nil | | | Nil | | |

| DRAWING PLEADINGS— <i>continued.</i> | ABOVE £20. | | | UND. £20. | | |
|---|------------|----|----|-----------|----|----|
| | £ | s. | d. | £ | s. | d. |
| Postea, when drawn by attorney, including ingrossing, for every folio | 0 | 1 | 0 | 0 | 1 | 0 |
| Judgment, whether by default or final | 0 | 3 | 4 | 0 | 3 | 4 |
| Authority to receive monies out of court | 0 | 3 | 0 | 0 | 2 | 0 |
| Suggestions, pleas to suggestions, and subsequent pleadings, of three folios or under, inclusive of ingrossment | 0 | 4 | 0 | 0 | 3 | 0 |
| If above three folios, for every folio drawing | 0 | 1 | 0 | 0 | 1 | 0 |
| Issue for the trial of facts by agreement, for every folio | 0 | 1 | 0 | 0 | 1 | 0 |
| Special case, per folio | 0 | 1 | 0 | 0 | 1 | 0 |
| Agreement of damages and copy, if five folios or under | 0 | 6 | 8 | 0 | 3 | 4 |
| Above five folios, for every folio drawing | 0 | 1 | 0 | 0 | 1 | 0 |
| And copy per folio | 0 | 0 | 4 | 0 | 0 | 4 |
| Drawing writ of inquiry | 0 | 3 | 4 | Nil. | | |
| Special particulars of demand or set-off and copy, per folio | 0 | 0 | 8 | 0 | 0 | 4 |
| Short ditto, and copy | 0 | 5 | 0 | 0 | 2 | 6 |
| Abstract of pleas, when necessary, and fair copy, and copy for judge | 0 | 5 | 4 | 0 | 3 | 4 |
| Bill of costs and copy for taxation, per folio | 0 | 0 | 8 | — | | |
| Copy for the opposite party | 0 | 0 | 4 | — | | |
| Drawing bill of costs and copy, per folio 4d., not to exceed | . | . | . | 0 | 4 | 0 |
| Copy for the opposite party, per folio 4d., not to exceed | . | . | . | 0 | 4 | 0 |
| Drawing and ingrossing common cognovit, and attendance thereon | 0 | 13 | 4 | 0 | 6 | 8 |

| DRAWING PLEADINGS— <i>continued</i> . | ABOVE £20. | | | UND. £20. | | |
|---|------------|----|----|-----------|----|----|
| | £ | s. | d. | £ | s. | d. |
| If special and long | 1 | 0 | 0 | 0 | 10 | 0 |
| Replication accepting money out of court in full of demand, inclusive of instructions | 0 | 4 | 0 | 0 | 3 | 0 |
| Similiter or joinder of issue to obtain order to try before sheriff | . | . | . | 0 | 3 | 0 |
| Declarations, above ten folios, per folio | 0 | 0 | 4 | 0 | 0 | 4 |
| Other pleadings before enumerated, above 3 folios, per folio | 0 | 0 | 4 | 0 | 0 | 4 |
| Issue (pleadings), if 15 folios or under | 0 | 5 | 0 | — | | |
| If above 15 folios, for every folio | 0 | 0 | 4 | 0 | 0 | 4 |
| Issue (pleadings), if 10 folios or under | . | . | . | 0 | 3 | 4 |
| Above 10 folios, per folio | . | . | . | 0 | 0 | 4 |
| All proceedings on paper, per folio | 0 | 0 | 4 | 0 | 0 | 4 |
| The like on parchment, per folio | 0 | 0 | 6 | 0 | 0 | 4 |
| Judgments for non-appearance on specially indorsed writs, or writs of revivor, and in ejectment, to be taken as 9 folios, including the writ in actions above £20, and 6 folios under £20 | | | | | | |
| The allowance of £1 3s. 2d. for interlocutory judgments will be discontinued, and the drawing, entry, and other charges will for the future be according to this scale. | | | | | | |
| The length of interlocutory and final judgments will be allowed as heretofore. | | | | | | |
| NOTICES. | | | | | | |
| To declare, reply, and subsequent pleadings, copy, and service | 0 | 4 | 0 | 0 | 3 | 0 |

| NOTICES— <i>continued.</i> | ABOVE £20. | | | UND. £20. | | |
|---|------------|----|----|-----------|----|----|
| | £ | s. | d. | £ | s. | d. |
| By defendant to bring issue to trial, copy, and service . . . | 0 | 4 | 0 | 0 | 3 | 0 |
| For special jury to opposite attorney, copy, and service, pursuant to section 109 | 0 | 5 | 0 | 0 | 3 | 0 |
| The like to sheriff, pursuant to section 112 | 0 | 5 | 0 | 0 | 3 | 0 |
| To executor or administrator of sole defendant deceased, to appear to writ and suggestion . . | 0 | 5 | 0 | 0 | 3 | 0 |
| To sheriff of renewal of execution, exclusive of any payment. . . | 0 | 5 | 0 | 0 | 3 | 0 |
| To plaintiff in error to assign errors | 0 | 5 | 0 | 0 | 3 | 0 |
| Of discontinuance of error . . . | 0 | 4 | 0 | 0 | 3 | 0 |
| Of confession of error | 0 | 4 | 0 | 0 | 3 | 0 |
| Of plaintiff's in error intention to proceed to personal representatives of defendant deceased . . | 0 | 5 | 0 | 0 | 3 | 0 |
| Of appearance when appearance duly entered and notice given on the day of appearance, but not otherwise | 0 | 4 | 0 | 0 | 3 | 0 |
| Of appearance to writ of revivor . . | 0 | 5 | 0 | 0 | 3 | 0 |
| To plead | 0 | 4 | 0 | 0 | 3 | 0 |
| Of declaration when necessary, copy, and service | 0 | 5 | 0 | 0 | 5 | 0 |
| Of objection for misjoinder or non-joinder of plaintiff, copy, and service | 0 | 4 | 0 | 0 | 3 | 0 |
| To sheriff to discharge a prisoner out of custody, copy, and service . | 0 | 5 | 0 | 0 | 4 | 0 |
| Notice in ejectment to defend for part of premises, and service . . | 0 | 6 | 0 | — | | |
| If above 3 folios, for every folio additional | 0 | 1 | 0 | — | | |
| Notice of admission of right and | | | | | | |

| NOTICES— <i>continued.</i> | ABOVE £20. | UND. £20. |
|--|------------|-----------|
| | £ s. d. | £ s. d. |
| denial of ouster by a joint tenant, &c. | 0 6 0 | — |
| If above 3 folios, for every folio | 0 0 4 | — |
| Discontinuance by claimant in ejectment, and service | 0 5 0 | — |
| Of confession of action of ejectment as to the whole or in part, and service | 0 10 0 | — |
| Of trial, inquiry, demand of residence of plaintiff, of authority for issuing writ, and all other common notices | 0 4 0 | 0 3 0 |
| To admit or produce, if short | 0 7 6 | 0 5 0 |
| The like, if long | 0 10 0 | 0 5 0 |
| If very long and special, a larger allowance may be made in cases above £20. | | |
| Additional allowance for mileage, as upon the service of a writ. | | |
| COPY AND SERVICE. | | |
| Of special and common rules | 0 5 0 | 0 4 0 |
| Of special rule, above 3 folios, per folio additional | 0 0 4 | 0 0 4 |
| Of summons or order of a judge | 0 3 0 | 0 3 0 |
| Of order to charge a prisoner in execution | 0 5 0 | — |
| Of Master's note of receipt and of affidavits in error in fact | 0 7 0 | — |
| Of Master's note of receipt in error in law | 0 5 0 | — |
| Mileage on services as upon a writ of summons | | |
| EJECTMENT. | | |
| Instructions to sue, and examining deeds | 0 13 4 | — |
| If a question of title | 1 1 0 | — |

| ATTENDANCES. | ABOVE £20. | | | UND. £20. | | |
|---|------------|----|----|-----------|----|----|
| | £ | s. | d. | £ | s. | d. |
| To search for appearance to writ of summons | 0 | 3 | 4 | 0 | 3 | 4 |
| Two searches will be allowed if necessarily made. | | | | | | |
| To obtain undertaking to appear to process | 0 | 5 | 0 | 0 | 5 | 0 |
| To give undertaking to appear | 0 | 5 | 0 | 0 | 5 | 0 |
| Deponent to be sworn (where allowed) for rules where no attendance in court, to enter exception to bail, to leave writ at sheriff's office, to obtain return to writ, to alter or amend pleadings, to file any proceeding, to obtain office copies, consent to any summons, for postea (if necessary), to set down case, or demurrer, each judge with demurrer book or special case, to deliver points to each judge, to ascertain if books delivered, and other like attendances | 0 | 3 | 4 | 0 | 3 | 4 |
| To set down causes for trial | 0 | 6 | 8 | 0 | 3 | 4 |
| On each counsel with brief at trial, fee under twenty guineas, to reduce special jury, summons before a judge, and to pay money into court | 0 | 6 | 8 | 0 | 3 | 4 |
| On counsel with brief, fee twenty guineas and above | 0 | 13 | 4 | — | | |
| To receive money out of court | 0 | 10 | 0 | 0 | 6 | 8 |
| Counsel with brief on motion, if above one guinea fee | 0 | 6 | 8 | 0 | 3 | 4 |
| If one guinea only | 0 | 3 | 4 | 0 | 3 | 4 |
| Consultation with counsel | 0 | 13 | 4 | Nil. | | |
| Conference with counsel | 0 | 6 | 8 | — | | |
| Fee on every record or writ of trial | 0 | 6 | 8 | 0 | 3 | 4 |

| ATTENDANCES— <i>continued.</i> | ABOVE £20. | | | UND. £20. | | |
|---|------------|----|----|-----------|----|----|
| | £ | s. | d. | £ | s. | d. |
| For common jury panel . . . | 0 | 3 | 4 | 0 | 3 | 4 |
| For special jury panel . . . | 0 | 6 | 8 | 0 | 3 | 4 |
| To obtain names of viewers . . . | 0 | 6 | 8 | 0 | 3 | 4 |
| To enter any suggestion on roll when necessary . . . | 0 | 3 | 4 | 0 | 3 | 4 |
| Attending court cause made rema- net . . . | 0 | 13 | 4 | 0 | 6 | 8 |
| Attending for fresh panels after remanet as before . . . | | | | | | |
| Attendances incidental to agree- ment of amount of damages according to the circumstances . | | | | | | |
| Attendance in pursuance of notice to admit . . . | 0 | 6 | 8 | 0 | 3 | 4 |
| For every hour beyond one . . . | 0 | 6 | 8 | 0 | 3 | 4 |
| Attending making admissions, ex- cept under special circumstances | 0 | 6 | 8 | 0 | 3 | 4 |
| On reference to Master upon com- mon matters, such as to compute upon a bill or bond . . . | 0 | 6 | 8 | 0 | 6 | 8 |
| Special matters . . . | 0 | 13 | 4 | 0 | 6 | 8 |
| For every hour after the first . . | 0 | 6 | 8 | 0 | 3 | 4 |
| If counsel in attendance, attorney attending . . . | 0 | 6 | 8 | 0 | 3 | 4 |
| Above one hour . . . | 0 | 13 | 4 | 0 | 6 | 8 |
| To attest confession in ejectment . | 0 | 6 | 8 | — | | |
| To file memorandum of error and obtain Master's receipt . . . | 0 | 6 | 8 | 0 | 3 | 4 |
| Assizes each day, exclusive of ex- penses, but inclusive of all mat- ters transacted except one at- tendance upon each counsel with brief . . . | 2 | 2 | 0 | — | | |
| Expenses, exclusive of travelling, for each day . . . | 1 | 1 | 0 | — | | |
| Travelling expenses, the amount actually and reasonably paid, but | | | | | | |

| <i>ATTENDANCES—continued.</i> | ABOVE £20. | UND. £20. |
|--|------------|-----------|
| | £ s. d. | £ s. d. |
| in no case exceeding 1s. per mile one way. | | |
| If two causes, in each per day for attendance | 1 11 6 | — |
| If three causes or more, each | 1 1 0 | — |
| If more than one cause, expenses at £1 1s. each day, and travelling expenses to be divided equally | | |
| Clerk's attendance discretionary if more than one cause, or in special cases not exceeding per day, inclusive of expenses, except travelling | 1 1 0 | — |
| In assize towns in which two lists are made, and in special jury causes, the attendance of the attorney will not be allowed from the commission day, but only from such period as his attendance became proper | | |
| On writ of inquiry or writ of trial at a distance, if no other business, inclusive of expenses, per day | 2 2 0 | 1 1 0 |
| If two cases, each | 1 11 6 | 0 13 4 |
| If more than two cases, each | 1 1 0 | 0 13 4 |
| Travelling expenses as before, and to be apportioned if more than one cause. | | |
| In London or Middlesex, or in same town, on trial or writ of inquiry, when cause in paper and not tried, per day | 0 13 4 | 0 6 8 |
| On trial | 1 1 0 | 0 13 4 |
| Ditto, if occupied the whole day | 2 2 0 | — |
| Managing clerk to conduct cause at a distance when only one cause per day | 1 11 6 | 0 13 4 |

| ATTENDANCES— <i>continued</i> . | ABOVE £20. | | | UND. £20. | | |
|--|------------|----|----|-----------|----|----|
| | £ | s. | d. | £ | s. | d. |
| If more than one cause, each . . . | 1 | 1 | 0 | 0 | 10 | 6 |
| Travelling and other expenses the same as attorney. | | | | | | |
| Court on motion rule nisi granted. | 0 | 6 | 8 | 0 | 3 | 4 |
| The like on rule absolute after rule nisi | 0 | 13 | 4 | 0 | 6 | 8 |
| The like previous to argument, per day | 0 | 6 | 8 | 0 | 3 | 4 |
| The like in cases set down in the paper not exceeding for a whole term | 2 | 0 | 0 | 1 | 0 | 0 |
| After term when sittings, not exceeding | 1 | 0 | 0 | 0 | 10 | 0 |
| | 0 | 13 | 4 | 0 | 3 | 4 |
| Taxation on postea | | to | | | to | |
| | 1 | 0 | 0 | 0 | 6 | 8 |
| More according to time occupied. | | | | | | |
| Ditto, costs of cause otherwise than on postea | 0 | 6 | 8 | } | 0 | 3 |
| | 0 | 13 | 4 | | | |
| Ditto, costs of judgment only, and ordinary interlocutory matters . | 0 | 3 | 4 | 0 | 3 | 4 |
| BRIEFS. | | | | | | |
| Minutes of evidence | | | | 0 | 13 | 4 |
| Brief and one fair copy where cause tried before a judge of a court of record where attorneys are not allowed to act as advocates, not exceeding | | | | 2 | 0 | 0 |
| In the like case, fee to counsel and clerk | | | | 1 | 3 | 6 |
| For drawing, per folio | 0 | 1 | 0 | — | | |
| Copying | 0 | 0 | 4 | — | | |
| TERM FEES AND LETTERS. | | | | | | |
| Proper business | 0 | 13 | 0 | 0 | 10 | 0 |

| TERM FEES AND LETTERS— <i>cont.</i> | ABOVE £20. | | | UND. £20. | | |
|--|------------|----|----|-----------|----|----|
| | £ | s. | d. | £ | s. | d. |
| Agency | 0 | 15 | 0 | 0 | 12 | 0 |
| Letters when no term fee, proper business | 0 | 3 | 0 | 0 | 2 | 0 |
| Agency | 0 | 5 | 0 | 0 | 3 | 0 |
| Letters in interlocutory matters proper | 0 | 2 | 0 | — | | |
| Agency | 0 | 3 | 0 | — | | |
| In actions under £20 no allowance will be made for "letters" for the vacation preceding the term in which a term fee shall be allowed. | | | | | | |
| LETTERS. | | | | | | |
| Letter before action and other letters | 0 | 3 | 6 | 0 | 2 | 0 |
| Circular letters after the first | 0 | 1 | 6 | 0 | 1 | 0 |
| AFFIDAVITS. | | | | | | |
| Drawing special affidavits, per folio | 0 | 1 | 0 | 0 | 1 | 0 |
| Ingrossing same, exclusive of affidavits of increase | 0 | 0 | 4 | Nil. | | |
| Common affidavits, of five folios, or under, including ingrossing and oath | 0 | 6 | 0 | 0 | 5 | 0 |
| Affidavit of increase, including ingrossing and oath | . | . | . | 0 | 5 | 0 |
| Copy for the other side | . | . | . | 0 | 2 | 0 |
| SEARCHES. | | | | | | |
| All common searches exclusive of payment | 0 | 3 | 4 | 0 | 3 | 4 |
| If very long. | 0 | 13 | 4 | 0 | 6 | 8 |

| COUNSEL. | ABOVE £20. | | | UND. £20. | | |
|--|------------|----|----|-----------|----|----|
| | £ | s. | d. | £ | s. | d. |
| To attend reference to Master, not exceeding, except on examination of witnesses | 2 | 2 | 0 | Nil | | |
| To settle special indorsement on writ. | Nil | | | Nil | | |
| WARRANT OF ATTORNEY. | | | | | | |
| Costs of signing judgment | 3 | 10 | 0 | — | | |
| DEFENDANTS. | | | | | | |
| Appearance | 0 | 7 | 0 | 0 | 6 | 0 |
| For each additional defendant, inclusive of payment | 0 | 1 | 6 | 0 | 1 | 6 |
| A second summons and order for time to plead shall be allowed in special cases above £20 when necessary. | | | | | | |
| COUNSEL'S CLERK'S FEES. | | | | | | |
| The fees to be allowed to counsel's clerk not to exceed as under :— | | | | | | |
| Upon a fee under 5 guineas | 0 | 2 | 6 | — | | |
| 5 guineas and under 10 guineas | 0 | 5 | 0 | — | | |
| 10 guineas and under 20 guineas | 0 | 10 | 0 | — | | |
| 20 guineas and under 30 guineas | 0 | 15 | 0 | — | | |
| 30 guineas and under 50 guineas | 1 | 0 | 0 | — | | |
| 50 guineas and upwards | 2 | 10 | 0 | — | | |
| | per cent. | | | | | |
| ON CONSULTATIONS. | | | | | | |
| Senior's clerk | 0 | 7 | 6 | — | | |
| Junior's clerk | 0 | 2 | 6 | — | | |
| On general retainer | 0 | 10 | 6 | — | | |
| On common retainer | 0 | 2 | 6 | — | | |
| On conference | 0 | 5 | 0 | — | | |

ALLOWANCE TO WITNESSES.

| | If resident in the town in which the cause is tried. | If resident at a distance from the place of trial. | |
|--|--|---|--|
| | £ s. d. | £ s. d. | |
| Common witnesses, such as la- bourers, journeymen, &c., per diem } | 0 5 0 | 0 5 0 to 0 7 6 | |
| Master tradesmen, yeomen, and farmers, per diem . . . from } | 0 7 6 to 0 10 0 | 0 10 0 to 0 15 0 | |
| Auctioneers and accountants, per diem } | 0 10 6 to 1 1 0 | 0 10 6 to 1 1 0 | |
| Professional men, per diem . . . | 1 1 0 | — | |
| Ditto, inclusive of all, except tra- velling expenses, per diem . . } | . . . | 2 2 0 to 3 3 0 | |
| Attornies' or other clerks, per diem } | 0 10 6 | 0 15 0 to 1 1 0 1 1 0 | |
| Engineers and surveyors, per diem | 1 1 0 | to 3 3 0 | |
| Notaries, per diem | 1 1 0 | 1 1 0 | |
| Gentlemen } | 1 1 0 | 1 1 0 per diem. | |
| Esquires | with subpoena, but no daily al- lowance, except after the first day, and then a reasonable sum for refreshment and convey- ance. | | |
| Bankers | | | |
| Merchants | | | |
| Females according to station in life per diem } | 0 5 0 to 0 10 0 | 0 5 0 to 1 0 0 | |

MISCELLANEOUS.

Close copy of proceedings in agency cases, 4d. per folio, according to actual length.

In cases under £20 no allowance will be made in respect of the following matters :—

Attending deponent to be sworn to affidavit.

Advice on evidence.

Maps, plans, or models.

For maps or plans, when used in cases above £20, from £1 1s. to £3 3s.

All other allowances will be made as heretofore, except so far as it may be necessary to reduce or increase the same conformably to the scale of fees published on the 24th November, 1852.

CAMPBELL.

JOHN JERVIS.

FRED. POLLOCK.

E. H. ALDERSON.

W. WIGHTMAN.

T. J. PLATT.

W. ERLE.

T. N. TALFOURD.

SAM'L MARTIN.

A SCALE OF COSTS AND CHARGES

TO BE PAID TO

COUNSEL AND ATTORNEYS IN THE COUNTY COURTS,

AS WELL BETWEEN PARTY AND PARTY AS BETWEEN
ATTORNEY AND CLIENT.*Under the Provisions of the Statute 19th and 20th Victoria, Chapter 108.*

| | £ | s. | d. |
|--|---|----|----|
| Letter before suit | 0 | 3 | 0 |
| Instructions to sue or defend | 0 | 5 | 0 |
| Attendance and entering plaint, including particulars of demand and copies, such particulars and copies being signed by the attorney | 0 | 10 | 0 |
| N.B.—The total amount of these items to be entered on the summons. | | | |
| Examining and taking minutes of the evidence of each witness afterwards allowed by the judge | 0 | 3 | 0 |
| Attending court and conducting cause, where no counsel employed | 1 | 10 | 0 |
| Witnesses' expenses in conformity with rule. | | | |
| Attending taxing costs | 0 | 3 | 0 |

OCCASIONAL COSTS.

| | | | |
|---|---|---|---|
| Attending to apply for summons out of the district | 0 | 4 | 0 |
| N.B.—The amount of this item to be entered on the summons. | | | |
| If plaintiff abandon action, and give notice thereof, attending settling | 0 | 3 | 0 |
| Notice to produce, notice to admit, notice of application for a new trial, or to set aside proceedings, including copies or duplicate | | | |

| | £ | s. | d. |
|--|---|----|----|
| originals and service, and notice of special defence and copies, including particulars, and copies in cases of set-off, and attending Registrar of the Court therewith, such notices, particulars, and copies being signed by the attorney | 0 | 5 | 0 |
| Attending inspecting documents | 0 | 5 | 0 |
| Mileage, one way, from the attorney's place of business to place of inspection of documents, for each mile, not exceeding in the whole twenty miles | 0 | 0 | 6 |
| Preparing confession or statement of agreement under section 8 or section 9 of 13 & 14 Vict. c. 61, where prepared by plaintiff's attorney, including all incidental attendances | 0 | 7 | 0 |
| All necessary affidavits, including filing, each | 0 | 5 | 0 |
| Oath ; sum paid. | | | |
| Attending to enter up judgment by default | 0 | 3 | 0 |
| Attending court for an order to bring up a prisoner to give evidence | 0 | 4 | 0 |
| Instructions for, and drawing and copy brief, in cases in which counsel employed, including attendance on counsel therewith | 2 | 0 | 0 |
| Fee to counsel and clerk, sum paid not exceeding | 3 | 5 | 6 |
| Attending court on trial, with counsel | 0 | 10 | 0 |
| Attending court to support or oppose motion for new trial, or motion to set aside proceedings, or motion for a change of venue, including instructions, or any other necessary attendance, where no counsel employed | 0 | 15 | 0 |
| Attending in the last-mentioned cases with counsel | 0 | 10 | 0 |
| Fee to counsel and clerk | 1 | 3 | 6 |
| Any attendance at the office of the Registrar, which he may, upon taxation, think was necessary | 0 | 3 | 0 |
| Every bond given under s. 70 of 19 & 20 Vict. c. 108 | 0 | 7 | 0 |

£ s. d.

New Trial.

Costs to be allowed on the same scale as on the original trial.

Costs of the Day on Adjournment of Cause.

| | | | |
|--|---|----|---|
| Attorney for attending court where no counsel employed | 0 | 15 | 0 |
| Attending with counsel | 0 | 10 | 0 |
| Refresher fee to counsel and clerk | 1 | 3 | 6 |
| Witnesses' expenses, same as on trial | | | |

Arbitration.

| | | | |
|---|---|----|---|
| Attending reference, without counsel, for each sitting | 1 | 0 | 0 |
| Attending reference, with counsel, for each sitting | 0 | 15 | 0 |
| Fee to counsel and clerk, for each sitting, sum paid, not exceeding | 2 | 4 | 6 |
| Witnesses' expenses same as on a trial. | | | |

Note.—Costs of counsel and attorney, or of an attorney on attending reference, shall not be allowed without the order of the judge; nor shall the costs of more than one sitting be allowed without the order of the judge.

Costs in Actions under 19 & 20 Vict. c. 108, section 23,

Shall be taxed according to the scale of taxation used in the Court of Queen's Bench, so far as it is directly applicable; and where it is not so applicable, the principle of that scale shall be followed.

Costs on Appeals.

| | | | |
|---|---|---|---|
| Preparing notice of appeal, including copies and service | 0 | 5 | 0 |
| Paying money into court as deposit on appeal, including notice and service thereof | 0 | 3 | 0 |
| Notice of nature and particulars of proposed security, including copies and service | 0 | 3 | 0 |

| | £ | s. | d. |
|--|---|----|----|
| Notice of court to which appeal to be made | 0 | 3 | 0 |
| Preparing case, including copies | 0 | 10 | 0 |
| Attending judge to sign, or to settle and sign case | 0 | 3 | 0 |
| Transmitting copies of case, including deposit- ing the same | 0 | 3 | 0 |
| Transmitting case and copies, including notice and service thereof | 0 | 3 | 0 |
| Application to judge for leave to proceed on the judgment | 0 | 5 | 0 |
| Depositing order of court of appeal, including notice and service thereof | 0 | 3 | 0 |

Where a new trial takes place in pursuance of the directions of the court of appeal, the costs of such new trial shall be allowed on the same scale as in the case of a new trial granted by the judge of the county court.

N.B.—The costs in every cause shall upon the above scale abide the event, unless the judge shall make some special order with reference to such costs or any part thereof.

IN PURSUANCE of the powers vested in us by the appointment of the Lord Chancellor under the provision of the Statute 19th and 20th Victoria, Chapter 108, we, John Herbert Koe, Edward Cooke, John Worlledge, and William Furner, have framed the above Scale of Costs and Charges to be paid to counsel and attorneys in the County Courts; and we do hereby certify the same to the Lord Chancellor accordingly.

JOHN HERBERT KOE.
EDWARD COOKE.
JOHN WORLLEDGE.
WILLIAM FURNER.

I APPROVE of this scale, to come into operation in all County Courts on the first day of November next.

CRANWORTH, C.

9th Oct. 1856.

SCALE OF COSTS

ON

JUDGMENT FOR WANT OF APPEARANCE.

| | Above £20. | | | Under £20. | | |
|---|------------|----|----|------------|----|----|
| | £ | s. | d. | £ | s. | d. |
| Letter | 0 | 3 | 6 | 0 | 2 | 0 |
| Instructions to sue | 0 | 6 | 8 | 0 | 3 | 4 |
| Writ and indorsement | 0 | 12 | 6 | 0 | 10 | 0 |
| Particulars of claim | 0 | 5 | 0 | 0 | 2 | 6 |
| Copy and service of writ | 0 | 5 | 0 | 0 | 5 | 0 |
| Affidavit | 0 | 6 | 0 | 0 | 5 | 0 |
| Searching appearance and paid | 0 | 3 | 4 | 0 | 3 | 4 |
| Copy writ to file | 0 | 1 | 0 | 0 | 1 | 0 |
| Drawing judgment | 0 | 3 | 4 | 0 | 3 | 4 |
| Entering ditto | 0 | 4 | 0 | 0 | 3 | 0 |
| Attending to file copy writ and affidavit, and to sign judgment | 0 | 3 | 4 | 0 | 3 | 4 |
| Paid filing writ and affidavit | 0 | 4 | 0 | 0 | 4 | 0 |
| Paid signing judgment | 0 | 5 | 0 | 0 | 5 | 0 |
| Letters | 0 | 5 | 0 | 0 | 3 | 0 |
| | 0 | 0 | 4 | 0 | 0 | 2 |
| | <hr/> | | | <hr/> | | |
| | 3 | 8 | 0 | 2 | 14 | 0 |
| In agency or where writ served by correspondent, add | 0 | 12 | 0 | 0 | 8 | 0 |
| | <hr/> | | | <hr/> | | |
| | 4 | 0 | 0 | 3 | 2 | 0 |

EASTER TERM, 1857.

GENERAL RULES.

IT IS ORDERED that plaintiffs suing in contract for £20, or less, may, if they claim costs, endorse on the writ of summons the following notice :—

“Take notice, that if judgment be signed for default
“of appearance, the plaintiff will without summons
“apply to a judge for his costs of suit, unless before
“such judgment you shall give notice to him, or his
“attorney, that you intend to oppose such application.”

AND IT IS FURTHER ORDERED, that if the defendant give such notice, the plaintiff shall proceed by summons and order.

But if the defendant give no such notice, the plaintiff may produce such endorsement to a judge at chambers for an order for costs, *ex parte*, and if the judge shall sign his name to the endorsement, such signature shall be an order for costs, and the Master may tax them thereon accordingly. In case of any application for costs without such endorsement, the plaintiff shall not be entitled to more costs than if he had made such endorsement, unless a judge shall otherwise order.

ENTRY OF SATISFACTION ON JUDGMENTS.

Upon a satisfaction piece duly signed and attested in accordance with the 80th Rule of Hilary Term, 1853, being presented to the clerk of the judgments of the Masters in the court in which the judgment has been signed, he shall file the same and enter satisfaction in the judgment book against the entry of the said judgment, and no roll shall be required to be carried in for the purpose of entering satisfaction on a judgment.

CAMPBELL.
A. E. COCKBURN.
FRED. POLLOCK.
W. ERLE.
CHARLES CROMPTON.
E. V. WILLIAMS.
J. WILLES.
SAMUEL MARTIN.
G. BRAMWELL.
W. F. CHANNELL.

April 23rd, 1857.

IN THE

COSTS OF OBTAINING AN ORDER TO ISSUE EXECUTION UPON
JUDGMENT OF INFERIOR COURT WHERE THE JUDGMENT
IS NOT REMOVED.*Term 1859.*

| | £ | s. | d. |
|---|---|----|----|
| Instructions to apply for order to issue execution on judgment in Liverpool Borough Court | 0 | 6 | 8 |
| Attending searching for judgment and paid | 0 | 4 | 4 |
| Attending for certificate of prothonotary | 0 | 6 | 8 |
| Drawing and ingrossing | 0 | 5 | 0 |
| Paid | 0 | 5 | 0 |
| Affidavit verifying certificate | 0 | 6 | 0 |
| Oath | 0 | 1 | 0 |
| Copy affidavit and certificate to keep in agency | 0 | 3 | 0 |
| Attending judge for order | 0 | 6 | 8 |
| Filing certificate and affidavit | 0 | 2 | 0 |
| Close copy order | 0 | 1 | 0 |
| Paid for order | 0 | 5 | 0 |
| Costs and copy | 0 | 4 | 0 |
| Attending taxing | 0 | 6 | 8 |
| Paid | 0 | 2 | 0 |
| Letters | 0 | 5 | 0 |

IN THE

COSTS ON REMOVAL OF JUDGMENT ON ORDER
TO ISSUE EXECUTION.*Term 1859.*

| | £ | s. | d. |
|---|---|----|----|
| Instructions to remove judgment out of the Borough Court of Manchester | 0 | 6 | 8 |
| Paid entering proceedings on paper | 0 | 5 | 0 |
| Attending to bespeak office copy judgment, and afterwards for same | 0 | 6 | 8 |
| Paid for office copy | 0 | 5 | 0 |
| Drawing and ingrossing affidavit, verifying office copy judgment | 0 | 6 | 0 |
| Paid oath and exhibit | 0 | 1 | 0 |
| Attending judge for order | 0 | 6 | 8 |
| Paid for order | 0 | 5 | 0 |
| Paid filing affidavit and judgment | 0 | 2 | 0 |
| Close copy order | 0 | 1 | 0 |
| Attending to lodge original order at Man- chester | 0 | 3 | 4 |
| Attending for duplicate order | 0 | 3 | 4 |
| Paid for same | 0 | 5 | 0 |
| Copy to keep on filing same | 0 | 1 | 0 |
| Paid filing order | 0 | 2 | 0 |
| Attending to file | 0 | 3 | 4 |
| Paid filing judgment | 0 | 2 | 0 |
| Attending for certificate of judgment | 0 | 3 | 4 |
| Paid for same | 0 | 1 | 0 |
| Bill and copy | 0 | 4 | 0 |
| Attending taxing | 0 | 6 | 8 |
| Paid | 0 | 2 | 0 |
| Letters | 0 | 5 | 0 |

COSTS OF REGISTERING IN YORKSHIRE

Judgment.

| | £ | s. | d. |
|--|---|----|----|
| Drawing and ingrossing memorial for registering at Wakefield | 0 | 5 | 0 |
| Paid for stamp and parchment | 0 | 6 | 0 |
| Attending Master for certificate of judgment | 0 | 3 | 4 |
| Paid | 0 | 1 | 0 |
| Affidavit thereof | 0 | 5 | 0 |
| Paid oath | 0 | 1 | 0 |
| Paid agent's charges and fee for registry | 0 | 17 | 3 |

COSTS OF REGISTERING IN COUNTY
PALATINE, LANCASTER.*v.*

| | £ | s. | d. |
|--|---|----|----|
| Drawing memorial of judgment | 0 | 5 | 0 |
| Paid parchment | 0 | 1 | 0 |
| Writing agents | 0 | 3 | 6 |
| Paid charges as follows :— | | | |
| Attending prothonotary with memorandum of judgment | 0 | 3 | 4 |
| Paid him therewith | 0 | 2 | 6 |
| Copy to keep | 0 | 2 | 6 |
| Correspondence | 0 | 3 | 7 |

CRIMINAL APPEAL

REGINA v.

*Prosecutor's Costs.**Term 1859.*

| | £ | s. | d. |
|--|-------|----|----|
| Attending to bespeak office copy case, and afterwards for same | 0 | 6 | 8 |
| Notice to clerk of the court | 0 | 4 | 0 |
| Briefing case for counsel, and observations thereon | 1 | 1 | 0 |
| Fee to Mr. ——— and clerk | 2 | 4 | 6 |
| Attending him | 0 | 6 | 8 |
| Attending court, when case argued, and conviction affirmed | 1 | 1 | 0 |
| | <hr/> | | |
| | 5 | 3 | 10 |
| | <hr/> | | |

THE END.

ESTABLISHED 1830.

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